

# HOUSE BILL No. 1337

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-35; IC 6-1.1; IC 6-1.2; IC 6-1.6; IC 6-1.7; IC 6-1.8; IC 6-1.9; IC 6-2.3-8-1; IC 6-2.5; IC 6-3; IC 6-8.1-1-1.

**Synopsis:** Elimination of property taxes. Eliminates all ad valorem property taxes. Reduces the state adjusted gross income tax. Requires the reduction of county adjusted gross income taxes, county option income taxes, and county economic development taxes to eliminate the part raised to provide property tax replacement credits or homestead credits. Provides for: (1) the implementation of a local residential income tax, a local fire and safety benefit tax, a state business activity tax, and a state employment location tax; and (2) the use of utility receipts taxes to replace revenue lost to political subdivisions from the elimination of property taxes. Increases the state gross retail and use tax. Makes other changes. Makes an appropriation.

**Effective:** July 1, 2008; January 1, 2009; February 1, 2009.

**Thompson**

January 15, 2008, read first time and referred to Committee on Ways and Means.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE BILL No. 1337

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A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-35-5-3, AS ADDED BY P.L.233-2007,  
2       SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2009]: Sec. 3. (a) A permit holder that is issued a  
4       gambling game license under this article must pay to the commission  
5       an initial licensing fee of two hundred fifty million dollars  
6       (\$250,000,000) as follows:

7               (1) One hundred fifty million dollars (\$150,000,000) payable  
8               before November 1, 2007.

9               (2) One hundred million dollars (\$100,000,000) payable before  
10              November 1, 2008.

11       (b) The commission shall deposit any initial licensing fees collected  
12       under this section into the property tax reduction trust fund established  
13       by IC 4-35-8-2. Subject to an appropriation by the general assembly,  
14       money deposited into the property tax reduction trust fund under this  
15       section may be ~~used to provide property tax relief in any manner~~  
16       prescribed by the general assembly. **deposited in the local**  
17       **government distribution fund or used to reduce tax rates under**



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**IC 6-1.6 or IC 6-1.7.**

SECTION 2. IC 4-35-8-4, AS ADDED BY P.L.233-2007, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 4. Subject to appropriation by the general assembly, money deposited in the property tax reduction trust fund under section 3 of this chapter may be ~~used for providing property tax relief in any manner prescribed by the general assembly.~~ **deposited in the local government distribution fund or used to reduce tax rates under IC 6-1.6 or IC 6-1.7.**

SECTION 3. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 44. After December 31, 2008, property is exempt from a fire and safety benefit tax imposed under IC 6-1.7 to the same extent as the property would have been exempt from property taxes. A reference in this chapter or IC 6-1.1-11 to a property tax shall be treated after December 31, 2008, as a reference to fire and safety benefit taxes imposed under IC 6-1.7.**

SECTION 4. IC 6-1.1-20.9-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 7. This chapter expires January 1, 2009.**

SECTION 5. IC 6-1.1-21-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 13. This chapter expires January 1, 2009.**

SECTION 6. IC 6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

**ARTICLE 1.2. PROCEDURES FOR FIXING AND REVIEWING BUDGETS, TAX RATES, AND TAX LEVIES**

**Chapter 1. Purpose; Application**

**Sec. 1. This article applies to the following:**

- (1) Any political subdivision to which a law enacted before January 1, 2008, grants authority to impose an ad valorem property tax.
- (2) Any political subdivision that is granted authority to enact a tax under IC 6-1.6 or IC 6-1.7.
- (3) A district with an allocation area.

**Sec. 2. The purpose of this article, IC 6-1.6, IC 6-1.7, IC 6-1.8, and IC 6-1.9 is to replace ad valorem property taxes with the following alternative sources of tax revenue:**

- (1) Locally adopted residential income taxes distributable to the political subdivisions providing services where the

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taxpayer has the taxpayer's principal place of residence.

(2) Locally adopted fire and safety benefit taxes distributable to the political subdivisions providing public services where property is located.

(3) Statewide commercial activity taxes distributable to the political subdivisions providing services where business property is located.

(4) Statewide utility receipts taxes distributable to the political subdivisions providing services where business property is located.

(5) Statewide employer payroll expense taxes distributable to the political subdivisions providing services where the employer's employees have a principal place of business.

**Sec. 3.** Notwithstanding any other law, neither the state nor any political subdivision may impose an ad valorem property tax for an assessment date after January 15, 2008. All laws to the contrary expire on January 1, 2009.

**Sec. 4.** Notwithstanding any other law, a county assessor or township assessor may not carry out an assessment of property for an assessment date after January 15, 2008. However, the county auditor and the county assessor shall maintain a description of the property in the county sufficient to impose taxes under IC 6-1.7. The county assessor shall provide property information to the department of state revenue in the form and in the manner prescribed by the department. All laws to the contrary expire on January 1, 2009.

**Sec. 5.** The procedures set forth in this article apply to budget years beginning after December 31, 2008.

#### **Chapter 2. Definitions**

**Sec. 1.** The definitions in this chapter apply throughout this article.

**Sec. 2.** "Allocation area" refers to an area that is established under the authority of any of the following statutes and in which tax increment revenues are collected:

(1) IC 8-22-3.5.

(2) IC 36-7-14.

(3) IC 36-7-14.5.

(4) IC 36-7-15.1.

(5) IC 36-7-30.

(6) IC 36-7-30.5.

**Sec. 3.** "Budget year" means a calendar year.

**Sec. 4.** "County board" refers to the county board of tax and

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capital projects review or the county auditor, if the county auditor is carrying out the statutory functions of the county board of tax and capital projects review.

Sec. 5. "Department" refers to the department of state revenue.

Sec. 6. "Impose" means the following:

- (1) To establish a tax.
- (2) To set a tax rate for a tax.
- (3) To increase or decrease the tax rate for a tax.
- (4) To otherwise change the terms or conditions of a tax.

Sec. 7. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 8. "Taxes" means taxes imposed or distributed to a political subdivision under any of the following:

- (1) IC 6-1.6.
- (2) IC 6-1.7.
- (3) IC 6-1.8.
- (4) IC 6-1.9.

Sec. 9. "Tax increment revenues" means an allocation of:

- (1) ad valorem property taxes under a law adopted before January 1, 2009, to an allocation area based on an increase in the assessed value, wages, sales, or other economic activity occurring in the allocation area; or
- (2) taxes to replace the revenue lost from the elimination of ad valorem property taxes.

Sec. 10. "Tax limit" refers to a limit on property tax rates or property tax levies imposed under IC 6-1.1-18.5 or any law, other than IC 6-1.1-20.6.

Sec. 11. "Taxing unit" means a political subdivision described in IC 6-1.2-1-1.

### Chapter 3. Adoption of Budgets, Tax Rate, and Tax Levies

Sec. 1. The procedures set forth in IC 6-1.1-17 and IC 6-1.1-18 apply to the adoption of:

- (1) the part of a budget or supplemental budgets payable from taxes; and
- (2) the setting of tax rates and levies under IC 6-1.6 and IC 6-1.7;

to the same extent as if the taxes were ad valorem property taxes.

Sec. 2. Before July 2 in each year, the county fiscal officer shall send a certified statement containing the following information to the fiscal officer of each taxing unit in the county:

- (1) An estimate of taxes and property tax levy amounts to be distributed to the taxing unit during the last six (6) months of

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the current year.

(2) The average growth in adjusted gross income in the county over the preceding three (3) years.

(3) The amount available in the excess fund to replace revenue shortfalls from a year before the ensuing year and to reduce tax rates in the ensuing year.

(4) Any other information at the disposal of the county fiscal officer that might affect the budget adoption process.

Sec. 3. In formulating budget estimates, a taxing unit's fiscal officer and fiscal body shall identify the tax needed for each fund for the budget year.

Sec. 4. In the notice required under IC 6-1.1-17-3, a taxing unit shall include the following information:

(1) The amount of the budget for each fund that the taxing unit proposes to fund from taxes and the estimated tax rate necessary to raise the amount.

(2) The amount of the budget that will be funded from a distribution of the taxing unit's reserve in the excess fund.

Sec. 5. Not later than the date on which the notice described in section 4 of this chapter is published, a taxing unit shall submit a copy of the notice to the county fiscal officer.

Sec. 6. In the hearing conducted under IC 6-1.1-17-3 and IC 6-1.1-17-5 or IC 6-1.1-17-5.6, a taxing unit shall consider public testimony concerning the part of the budget that the taxing unit proposes to fund from taxes.

Sec. 7. Ten (10) or more individuals or entities that could be subject to a tax may object to a taxing unit's budget in the same manner as an objection may be filed under IC 6-1.1-17-5. The taxing unit shall make findings concerning an objection filed under this section in the same manner as the taxing unit is required to make findings to an objection filed under IC 6-1.1-17-5.

Sec. 8. The taxing unit's:

(1) budget; and

(2) tax levies;

must be adopted in conformity with IC 6-1.1-17-5 or IC 6-1.1-17-5.6, as applicable. The ordinance or resolution in which the tax levies are adopted must estimate the tax rates necessary to raise the tax levies and must separately state the tax levies and tax rates that are attributable to an excessive levy appeal.

Sec. 9. If the fiscal body does not fix a budget or specify the taxes needed to fund the budget before the date specified in IC 6-1.1-17-5 or IC 6-1.1-17-5.6 or any later date approved by the

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department of local government finance, the tax levy specified in the most recently adopted budget shall be treated as the tax levy adopted for the ensuing year. The department of local government finance shall compute the appropriate tax rate.

Sec. 10. Each year, at least two (2) days before the first meeting of the county board held under IC 6-1.1-29-4, a taxing unit shall file with the county auditor of each county in which the taxing unit is located:

- (1) a statement of each tax rate and levy fixed by the taxing unit for the ensuing budget year;
- (2) two (2) copies of the budget adopted by the taxing unit for the ensuing budget year; and
- (3) two (2) copies of any findings adopted under section 7 of this chapter.

The county auditor shall present these items to the county board at the board's first meeting. If a taxing unit is located in more than one (1) county, the county determined under IC 6-1.1-17-7 has jurisdiction over the taxing unit's budget, tax rates, and tax levies.

Sec. 11. When a county board reviews budgets, tax levies, and tax rates under IC 6-1.1-17-6, the county board may accept, revise, reduce, or increase the taxes, tax rates, and the part of the budget funded from taxes proposed by the taxing unit to enforce the tax limits imposed by law.

Sec. 12. A county board shall notify the fiscal officer of each taxing unit of the action taken under this section. The county board of tax adjustment or county fiscal officer shall issue its determination in the form of a written order. The written order shall be certified to the following:

- (1) The affected taxing unit.
- (2) The county fiscal officer for each county in which the taxing unit is located.

Sec. 13. In the notice required under IC 6-1.1-17-12, the county fiscal officer shall include the following information:

- (1) The tax levy and estimated tax rate that will be in effect in the taxing area for the following year.
- (2) A statement briefly describing the actions that the department of local government finance is empowered to take with respect to the tax levies, tax rates, and budget.

Sec. 14. The county fiscal officer shall forward a copy of each taxing unit's budget, tax rates, and tax levies to the department of local government finance along with notice of the actions taken by the county board.

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1       **Sec. 15. The department of local government finance shall**  
 2       **certify a taxing unit's tax levies and tax rates for a year to:**

- 3           (1) the affected taxing unit;  
 4           (2) the county fiscal officer for the county where taxes must be  
 5           raised;  
 6           (3) the department of state revenue; and  
 7           (4) the auditor of state;

8       **before December 2 or as soon as practicable after December 1 of**  
 9       **the year that immediately precedes the year in which a tax or a tax**  
 10       **increase will take effect.**

11       **Sec. 16. A tax rate certified under this chapter takes effect on**  
 12       **the later of January 1 or thirty (30) days after the tax rate is**  
 13       **certified by the county board.**

14       **Sec. 17. The total amount of taxes levied and the total amount**  
 15       **budgeted for a taxing unit may not exceed the tax limits applicable**  
 16       **to the taxing unit. Tax limits applicable to property taxes shall be**  
 17       **treated as applying to revenues from taxes that must be budgeted**  
 18       **under this article to the same extent as if they were property taxes.**  
 19       **The county board may prescribe standards for converting a tax**  
 20       **limit applicable to property taxes to a tax limit applicable to the**  
 21       **revenues from taxes that must be budgeted under this article.**

22       **Chapter 4. Anticipation Loans**

23       **Sec. 1. The fiscal body for a taxing unit may (by ordinance, if the**  
 24       **taxing unit is a county, city, or town, or otherwise by resolution)**  
 25       **enter into temporary loans to meet the current running expenses**  
 26       **of the taxing unit in anticipation of and not in excess of taxes**  
 27       **imposed for a budget year.**

28       **Sec. 2. Temporary loans under this chapter must be evidenced**  
 29       **by tax anticipation warrants of the taxing unit.**

30       **Sec. 3. An ordinance or resolution authorizing the issuance of**  
 31       **tax anticipation warrants must:**

- 32           (1) state the total amount of the issue;  
 33           (2) state the denomination of the warrants;  
 34           (3) state the date and time when and place where the warrants  
 35           are payable;  
 36           (4) state the rate of interest;  
 37           (5) state the funds and revenues in anticipation of which the  
 38           warrants are issued and out of which they are payable; and  
 39           (6) appropriate and pledge a sufficient amount of those  
 40           revenues to the punctual payment of the warrants.

41       **Sec. 4. Tax anticipation warrants issued under this chapter may**  
 42       **be for a term that extends to any date after the close of a particular**

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1 budget year on which taxes imposed for the budget year are  
2 reasonably expected to be collected.

3 **Sec. 5. Tax anticipation warrants issued under this chapter are**  
4 **exempt from taxation for all purposes.**

5 **Chapter 5. Bond and Lease Obligations; Allocation Areas**

6 **Sec. 1. Notwithstanding any other law, if a taxing unit desires to**  
7 **issue obligations or enter into leases, payable wholly or in part**  
8 **from taxes, the obligations of the taxing unit or any lessor may be**  
9 **sold at public sale in accordance with IC 5-1-11 or at negotiated**  
10 **sale.**

11 **Sec. 2. A pledge of tax revenues is enforceable in accordance**  
12 **with IC 5-1-14.**

13 **Sec. 3. With respect to obligations for which a pledge has been**  
14 **made from taxes, the general assembly covenants with the taxing**  
15 **unit and the purchasers or owners of those obligations that the law**  
16 **governing the taxes will not be repealed or amended in any manner**  
17 **that will adversely affect the tax collected under the law as long as**  
18 **the principal of or interest on those obligations is unpaid.**

19 **Sec. 4. Political subdivisions must fully fund the payment of**  
20 **their debt service and lease obligations in an amount sufficient to**  
21 **pay any debt service or lease rentals on outstanding obligations,**  
22 **regardless of any reduction in tax collections or spending authority**  
23 **due to the application of any tax limit. Any reduction in collections**  
24 **or spending authority must be applied to the other funds of the**  
25 **political subdivision after debt service or lease rentals have been**  
26 **fully funded.**

27 **Sec. 5. A pledge made by a political subdivision or the governing**  
28 **body of an allocation area before January 1, 2009, to pay:**

- 29 (1) any bonds, loans, other obligations, or lease rentals; or  
30 (2) any credit enhancement;

31 **from ad valorem property taxes, including tax incentive revenues,**  
32 **shall be treated after December 31, 2008, as a pledge to make the**  
33 **payment from revenues from taxes.**

34 **Sec. 6. The taxing units located in an area containing an**  
35 **allocation area shall raise a sufficient amount to distribute to the**  
36 **governing body of an allocation area to meet the obligations**  
37 **incurred by the governing body. However, the taxes distributed**  
38 **from the taxes imposed for a taxing unit may not exceed the**  
39 **amount of tax incentive revenues attributable to the taxing unit**  
40 **that would have been distributed to an allocation area if property**  
41 **taxes had not been eliminated. The taxing limits that would**  
42 **otherwise apply to a taxing unit are increased to the extent and for**

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the time necessary to comply with this section. The county board shall provide for the method of transferring taxes to an allocation area.

#### **Chapter 6. Treatment of Taxes as Property Taxes**

##### **Sec. 1. For purposes of:**

- (1) making distributions of revenues that are distributed to a taxing unit based on the property tax levies imposed by the taxing unit;
- (2) determining the maximum permissible taxes that may be imposed by taxing units; and
- (3) all other purposes;

taxes shall be treated as ad valorem property taxes.

#### **Chapter 7. Rainy Day Fund**

**Sec. 1.** A rainy day fund is established in each political subdivision that has not established a rainy day fund under IC 36-1-8-5.1.

**Sec. 2. (a)** A political subdivision shall annually determine an amount that equals five percent (5%) of the amount distributed to the political subdivision under this article and IC 6-1.6 in the immediately preceding year.

**(b)** A political subdivision shall deposit, from distributions to the political subdivision under this article and IC 6-1.6 during a period not exceeding three (3) years immediately after a five percent (5%) balance is determined under subsection (a), at least the amount necessary to provide or restore the amount determined under subsection (a).

##### **Sec. 3. Tax revenues:**

- (1) received under IC 6-1.6, IC 6-1.7, IC 6-1.8, or IC 6-1.9 for any budget year in excess of the amount budgeted from taxes by a taxing unit for the budget year in a budget approved by the county board; or
- (2) received under IC 6-1.7 for a budget year in excess of an amount of just and equitable taxes, as determined under IC 6-1.7-5-7;

shall be deposited in the taxing unit's rainy day fund. Money deposited in the rainy day fund under this section may be used only to reduce the tax rates that would otherwise be imposed under IC 6-1.6.

**Sec. 4.** In addition to the uses permitted under IC 36-1-8-5.1, money in a political subdivision's rainy day fund may be used to:

- (1) make up a shortfall in estimated revenue under IC 6-1.1, this article, IC 6-1.6, or IC 6-1.7;

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(2) provide a temporary loan to any fund for a budget year in anticipation of the collection of tax revenue for the budget year after the close of the budget year; or

(3) maintain tax rates lower than the tax rates that would otherwise apply under this article if money were not available in the rainy day fund.

#### **Chapter 8. Exchange of Information**

**Sec. 1. Forms, notices, ordinances, and resolutions required or permitted under this article must be prepared and used in the form and in the manner approved by the state board of accounts.**

**Sec. 2. The department shall establish a schedule for regularly providing information to a county board taxing unit concerning the following:**

(1) The amount of tax collections.

(2) The status of pending tax assessments, including information concerning proposed assessments and potential refunds.

(3) The amount of refunds made to taxpayers.

(4) The balance held by the state that is attributable to taxes imposed for the taxing unit.

(5) Transfers in and out of a taxing unit's account that are made to correct errors in the apportionment of taxes to a particular taxing unit.

(6) Other information that is necessary for the fiscal officer of a taxing unit and county board to verify the amount of tax revenue that will be available to the taxing unit.

**Sec. 3. The department may enter into a confidentiality agreement with county boards and taxing units to share information under the terms determined by the department.**

**Sec. 4. The department, after reviewing the recommendations of the budget agency, shall establish a schedule to regularly provide revenue forecasts to county boards and taxing units.**

**Sec. 5. The department shall require employers and taxpayers to provide sufficient information to permit the department to allocate tax revenues to taxing units under this article, IC 6-1.6, and IC 6-1.7. The information may be consolidated with other returns in the manner prescribed by the department.**

**Sec. 6. The department shall conduct a program to provide employers and taxpayers with information adequate to enable the employer or taxpayer to accurately report the information required under section 5 of this chapter.**

**SECTION 7. IC 6-1.6 IS ADDED TO THE INDIANA CODE AS A**

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1 NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2 2008]:

3 **ARTICLE 1.6. LOCAL RESIDENT INCOME TAX**

4 **Chapter 1. Definitions**

5 **Sec. 1.** The definitions in IC 6-3 and this chapter apply  
6 throughout this article.

7 **Sec. 2.** "Adjusted gross income" means adjusted gross income  
8 (as defined in IC 6-3-1-3.5(a)).

9 **Sec. 3.** "Allocation area" has the meaning set forth in  
10 IC 6-1.1-21.2-3.

11 **Sec. 4.** "Budget year" means a calendar year.

12 **Sec. 5.** "Impose" means the following:

13 (1) To establish a tax.

14 (2) To set a tax rate for a tax.

15 (3) To increase or decrease the tax rate for a tax.

16 (4) To otherwise change the terms or conditions of a tax.

17 **Sec. 6.** "Residency determination date" refers to the date in a  
18 taxpayer's taxable year on which the taxpayer's obligation to pay  
19 taxes imposed by a particular taxing unit is determined.

20 **Sec. 7.** "Resident" means an individual who is a resident of a  
21 taxing unit on the residency determination date in the individual's  
22 taxable year.

23 **Sec. 8.** "Tax" refers to an adjusted gross income tax imposed  
24 under this article.

25 **Sec. 9.** "Tax area" refers to a tax area determined under  
26 IC 6-1.6-2.

27 **Sec. 10.** "Tax limit" refers to a tax limit imposed under  
28 IC 6-1.1-18.5 or any other law that applies to a tax or property  
29 taxes.

30 **Sec. 11.** "Taxing unit" refers to the following:

31 (1) Any political subdivision (as defined in IC 36-1-2-13) to  
32 which a law enacted before January 1, 2009, grants authority  
33 to impose an ad valorem property tax.

34 (2) Any political subdivision (as defined in IC 36-1-2-13) that  
35 is granted authority to enact a tax under this article.

36 **Sec. 12.** "Taxpayer" refers to an individual who has tax liability  
37 under this article.

38 **Chapter 2. Determination of Tax Area**

39 **Sec. 1.** A tax levy for a taxing unit shall be imposed in the tax  
40 area determined under this chapter.

41 **Sec. 2.** The tax rate imposed by a taxing unit in the taxing unit's  
42 tax area shall be uniformly applied to the adjusted gross income of

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all taxpayers in the taxing area.

Sec. 3. (a) This section applies to a school corporation.

(b) The taxing area for a school corporation is the area within the boundaries of the school corporation.

Sec. 4. (a) This section applies to the following:

(1) A city or town.

(2) Any taxing unit that has boundaries that do not extend beyond the boundaries of a particular city or town.

(b) The taxing area of a taxing unit is the area served by the city or town.

Sec. 5. (a) This section applies to a taxing unit, other than a taxing unit described in section 3 or 4 of this chapter.

(b) The taxing area of the taxing unit is the entire area of each county where the taxing unit provides services.

### Chapter 3. Imposition of Tax

Sec. 1. The fiscal body of a taxing unit may impose a tax on the adjusted gross income of taxpayers in the taxing unit's tax area for taxable years beginning after December 31, 2008. The tax rate set by the taxing unit for a particular budget year may not exceed, after applying all other revenues from taxes that must be budgeted under IC 6-1.2, the lesser of the following:

(1) The revenue necessary for the taxing unit to fund its budget for the budget year.

(2) The amount that is permitted to be raised for the particular budget year under the tax limits that apply to the taxing unit.

Sec. 2. The tax is imposed on the adjusted gross income of:

(1) each individual who is a resident of the tax area on the residency determination date for the individual's taxable year; and

(2) each individual:

(A) who is not a resident of any tax area in Indiana on the residency determination date for the individual's taxable year; but

(B) whose principal place of business or employment is located in the tax area on the residency determination date for the individual's taxable year.

Sec. 3. For purposes of this chapter, an individual shall be treated as a resident of:

(1) the tax area in which the individual maintains a home, if the individual maintains only one (1) home in Indiana;

(2) if subdivision (1) does not apply, the tax area in which the

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individual is registered to vote;  
 (3) if neither subdivision (1) nor subdivision (2) applies, the tax area in which the individual registers the individual's personal automobile; or  
 (4) if none of subdivisions (1), (2), and (3) applies, the tax area in which the individual spends the majority of the individual's time in Indiana during the taxable year in question.

**Sec. 4.** The residence of an individual is to be determined on January 1 of the year in which the individual's taxable year begins. If an individual changes the location of the individual's residence to another tax area in Indiana during a year, the individual's liability for the tax is not affected.

**Sec. 5.** If for any taxable year a taxpayer is subject to different tax rates for the tax imposed in a tax area, the taxpayer's tax rate for the tax area and that taxable year is the rate determined in STEP FOUR of the following STEPS:

**STEP ONE:** Multiply the number of months in the taxpayer's taxable year that precede July 1 by the rate in effect before the rate change.

**STEP TWO:** Multiply the number of months in the taxpayer's taxable year that follow June 30 by the rate in effect after the rate change.

**STEP THREE:** Add the results determined under STEP ONE and STEP TWO.

**STEP FOUR:** Divide the STEP THREE result by twelve (12).

**Sec. 6.** If the tax is not in effect during a taxpayer's entire taxable year, the amount of tax that the taxpayer owes for that taxable year equals the product of:

(1) the amount of tax the taxpayer would owe if the tax had been imposed during the taxpayer's entire taxable year; multiplied by

(2) a fraction. The numerator of the fraction equals the number of days in the taxpayer's taxable year during which the tax was in effect. The denominator of the fraction equals the total number of days in the taxpayer's taxable year.

**Sec. 7. (a)** Except as provided in subsection (b), if for a particular taxable year a resident is liable for an income tax imposed by a county, city, town, or other local governmental entity located outside Indiana, that resident is entitled to a credit against the taxpayer's total tax liability imposed under this article for that same taxable year. The amount of the credit equals the amount of tax imposed by the other governmental entity on income derived

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from sources outside Indiana and subject to the tax under this chapter. However, the credit provided by this section may not reduce a resident's tax liability under this article to an amount less than would have been owed if the income subject to taxation by the other governmental entity had been ignored.

(b) The credit provided by this section does not apply to a resident to the extent that the other governmental entity provides for a credit to the resident for the amount of taxes owed under this article.

(c) To claim the credit provided by this section, a resident must provide the department of state revenue with satisfactory evidence that the taxpayer is entitled to the credit.

Sec. 8. (a) If for a particular taxable year a taxpayer is, or a taxpayer and the taxpayer's spouse who file a joint return are, allowed a credit for the elderly or totally disabled under Section 22 of the Internal Revenue Code, the taxpayer is, or the taxpayer and the taxpayer's spouse are, entitled to a credit against the tax liability under this article for that same taxable year. The amount of the credit equals the lesser of:

(1) the product of:

(A) the credit for the elderly or totally disabled for that same taxable year; multiplied by

(B) a fraction, the:

(i) numerator of which is the tax rate imposed under this article against the taxpayer or the taxpayer and the taxpayer's spouse; and

(ii) denominator of which is fifteen-hundredths (0.15); or

(2) the amount of tax imposed on the taxpayer or the taxpayer and the taxpayer's spouse.

(b) If a taxpayer and the taxpayer's spouse file a joint return and are subject to different taxing unit tax rates for the same taxable year, the taxpayer and the taxpayer's spouse shall compute the credit under this section by using the formula provided under subsection (a), except that they shall use the average of the two (2) tax rates imposed against them as the numerator referred to in subsection (a)(1)(B)(i).

Sec. 9. Except as otherwise provided in this chapter, all provisions of the adjusted gross income tax law (IC 6-3) concerning:

(1) definitions;

(2) declarations of estimated tax;

(3) filing of returns;

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1 (4) deductions or exemptions from adjusted gross income;  
 2 (5) remittances;  
 3 (6) incorporation of the provisions of the Internal Revenue  
 4 Code;  
 5 (7) penalties and interest; and  
 6 (8) exclusion of military pay credits for withholding;  
 7 apply to the imposition, collection, and administration of the tax  
 8 imposed by this article.

9 Sec. 10. IC 6-3-1-3.5(a)(6), IC 6-3-3-3, IC 6-3-3-5,  
 10 IC 6-3-4-4.1(g), IC 6-3-4-8.1(f), and IC 6-3-5-1 do not apply to the  
 11 tax imposed by this article.

12 Sec. 11. Each employer, including an employer making  
 13 payments by electronic funds transfer, shall report to the  
 14 department of state revenue for each reporting period the amount  
 15 of tax withholdings attributable to each taxing area. The report  
 16 must be made before the later of:

- 17 (1) the time that an employer that is not making an electronic  
 18 funds transfer is required to pay to the department of state  
 19 revenue amounts withheld during the reporting period; or  
 20 (2) the date specified by the department of state revenue.

21 Sec. 12. A taxpayer required to file estimated or annual state  
 22 adjusted gross income tax returns under IC 6-3-4-4.1, including  
 23 taxpayers making payments by electronic funds transfer, shall file  
 24 estimated tax returns and make payments of the tax imposed by  
 25 this article to the department of state revenue at the time or times  
 26 and in the installments specified under IC 6-3-4-4.1 for making  
 27 estimated state adjusted gross income tax returns by taxpayers not  
 28 making an electronic funds transfer.

#### 29 Chapter 4. Distribution of Tax Revenue

30 Sec. 1. The department of state revenue shall separately account  
 31 within the state general fund for the taxes imposed in each taxing  
 32 area in a manner sufficient to provide each taxing unit in a taxing  
 33 area, the taxpayers of the taxing unit, and a county board with  
 34 jurisdiction over the taxing unit with an accounting of the amounts  
 35 collected under this article in each of the taxing unit's taxing areas.

36 Sec. 2. The auditor of state shall distribute each month to a  
 37 taxing unit the net amount collected in the immediately preceding  
 38 month from the tax imposed by the taxing unit, after making  
 39 refunds and other adjustments for the overpayment of taxes.

40 Sec. 3. The auditor of state shall distribute, as required by law,  
 41 for deposit in the appropriate special fund, any tax revenue that is  
 42 to be distributed to an allocation area.

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1       **Sec. 4. Distributions under this chapter must be made from the**  
 2       **state general fund.**

3       **Sec. 5. (a) This section applies if:**

4           (1) a taxing unit's legislative body adopts an ordinance (if the  
 5           taxing unit is a county, city, or town) or a resolution (if the  
 6           taxing unit is not a county, city, or town) authorizing the  
 7           distribution of part of the taxing unit's taxes to an assignee of  
 8           the taxing unit; and

9           (2) the assignment is permitted by law.

10       **(b) The auditor of state shall reduce the amount of a distribution**  
 11       **made to a taxing unit by the amount that the taxing unit directs the**  
 12       **auditor of state to distribute to an assignee of the taxing unit.**

13       **(c) A distribution under this section must be made to the**  
 14       **assignee designated in the ordinance or resolution at the assignee's**  
 15       **last known address, as submitted to the auditor of state by the**  
 16       **executive of the taxing unit before the cutoff date specified by the**  
 17       **auditor of state or as otherwise determined by law.**

18       **(d) A distribution under this section may be made not more than**  
 19       **one (1) time each month. The distribution may be made only in the**  
 20       **months specified in the ordinance or resolution. The distribution**  
 21       **for a month may not exceed the amount that the taxing unit would**  
 22       **otherwise be entitled to receive as a distribution in the month, after**  
 23       **deducting all other distribution assignments.**

24       **Sec. 6. The amount necessary to make the distributions required**  
 25       **by this chapter is annually appropriated from the state general**  
 26       **fund.**

27       **SECTION 8. IC 6-1.7 IS ADDED TO THE INDIANA CODE AS A**  
 28       **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 29       **2008]:**

30       **ARTICLE 1.7. FIRE AND SAFETY BENEFIT TAX**

31       **Chapter 1. Definitions**

32       **Sec. 1. The definitions in this chapter apply throughout this**  
 33       **article.**

34       **Sec. 2. "Eligible entity" means a:**

- 35           (1) county, city, town, or township; or  
 36           (2) fire protection district;

37       **that provides public safety services.**

38       **Sec. 3. "Property" refers to property described in**  
 39       **IC 6-1.7-2-1(2) that is subject to the tax imposed by this article and**  
 40       **is not exempt from the tax under IC 6-1.1-10 or any other law.**

41       **Sec. 4. "Public safety services" refers to services described in**  
 42       **IC 6-1.7-2-3.**

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1       **Sec. 5. "Tax" refers to a fire and safety benefit tax imposed**  
 2 **under this article.**

3       **Chapter 2. Application**

4       **Sec. 1. This article applies to:**

- 5           (1) **all eligible entities; and**  
 6           (2) **the owner of each:**  
 7               (A) **lot;**  
 8               (B) **parcel of property; or**  
 9               (C) **building or other real property improvement;**  
 10           **located in an eligible entity.**

11       **Sec. 2. This article applies to an expenditure to establish,**  
 12 **maintain, operate, provide facilities or equipment for, contract for,**  
 13 **finance, or repay a judgment or other obligation related to any of**  
 14 **the following:**

- 15           (1) **A police and law enforcement system to preserve public**  
 16 **peace and order.**  
 17           (2) **A firefighting and fire prevention system.**  
 18           (3) **Emergency ambulance services (as defined in**  
 19 **IC 16-18-2-107), except as part of a levy for a county hospital**  
 20 **under IC 16-22 or a municipal hospital under IC 16-23.**  
 21           (4) **Emergency medical services (as defined in**  
 22 **IC 16-18-2-110), except as part of a levy for a county hospital**  
 23 **under IC 16-22 or a municipal hospital under IC 16-23.**  
 24           (5) **Emergency action (as defined in IC 13-11-2-65).**

25       **Sec. 3. The activities and systems to which this article applies**  
 26 **include the following:**

- 27           (1) **A communications system (as defined in IC 36-8-15-3) or**  
 28 **an enhanced emergency telephone system (as defined in**  
 29 **IC 36-8-16-2).**  
 30           (2) **Pension payments for any of the following:**  
 31               (A) **A member of a fire department (as defined in**  
 32 **IC 36-8-1-8) or any other employee of a fire department.**  
 33               (B) **A member of a police department (as defined in**  
 34 **IC 36-8-1-9), a police chief hired under a waiver under**  
 35 **IC 36-8-4-6.5, or any other employee hired by a police**  
 36 **department.**  
 37               (C) **A county sheriff or any other member of the office of**  
 38 **the county sheriff.**  
 39               (D) **Other personnel employed to provide a service**  
 40 **described in section 2 of this chapter.**  
 41           (3) **Operation of the following:**  
 42               (A) **A county jail.**

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(B) A juvenile detention center.

**Sec. 4. This article does not apply to expenditures related to:**

- (1) a court;
- (2) a probation department of a court; or
- (3) confinement, supervision, community correction services, or other correctional services for a person who has been:

(A) diverted before a final hearing or trial under an agreement that:

- (i) is between the county prosecutor and the person or the person's custodian, guardian, or parent; and
- (ii) provides for confinement, supervision, community correction services, or other correctional services instead of a final action described in clause (B) or (C);

(B) convicted of a crime; or

(C) adjudicated as a delinquent child or a child in need of services in a facility;

except for expenditures related to the operation of a county jail or juvenile detention center.

### **Chapter 3. Elimination of Property Tax Levies; Repayment of Prior Debt**

**Sec. 1. An eligible entity may not impose an ad valorem property tax levy to pay an expenditure under IC 6-1.7-2-2 or to fund the activities and systems referred to in IC 6-1.7-2-3.**

**Sec. 2. (a) This article does not prohibit:**

- (1) the consolidation of services payable from taxes; or
- (2) the funding of emergency ambulance services or emergency medical services with a user fee imposed under another statute.

(b) The legislative body of an eligible entity delivering the consolidated services referred to in subsection (a)(1) shall allocate the cost payable from taxes based on the relative benefit of the consolidated services to:

- (1) public safety services; and
- (2) other purposes.

**Sec. 3. Section 1 of this chapter does not release or extinguish a debt of an eligible entity that was incurred before January 1, 2009. However, to the extent permitted under the Constitution of the United States and the Constitution of the State of Indiana, a law entitling a holder of an obligation to enforce a right to repayment from property tax levies does not apply after December 31, 2008, to a holder of an obligation that was created before January 1, 2009, but was incurred to finance an activity to which this article**

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1 applies.

2       **Sec. 4.** If an agreement with an eligible entity entered into  
3 before January 1, 2009, or a judgment entered against an eligible  
4 entity before January 1, 2009, requires the eligible entity to make  
5 payments after December 31, 2008, from property tax levies that  
6 are prohibited by section 1 of this chapter, the holders of the  
7 obligations are entitled to payment from all other sources of  
8 receipts that are available to the eligible entity after December 31,  
9 2008, except receipts that by law or the terms of a grant are  
10 restricted to another use.

11       **Chapter 4. Treatment of Distributions Based on Property Tax**  
12 **Levies**

13       **Sec. 1.** Taxes imposed under this article shall be treated as ad  
14 valorem property taxes for the purpose of distributions under the  
15 following:

16           (1) IC 6-1.1-21.

17           (2) IC 6-3.5.

18           (3) IC 6-5.5.

19           (4) IC 6-6-5.

20           (5) Any other law that computes a distribution on the assessed  
21 value of the tangible property in an eligible entity or on the  
22 property tax levy imposed by the eligible entity.

23       **Sec. 2.** The department of state revenue shall provide the  
24 information for county auditors to make the distributions  
25 described in section 1 of this chapter for public safety services.

26       **Chapter 5. Imposition of Tax**

27       **Sec. 1.** An eligible entity may impose a tax on:

28           (1) the owner of property in the eligible entity; and

29           (2) if the eligible entity has entered into a contract to provide  
30 public safety services outside the eligible entity, the owner of  
31 property outside the eligible entity served under the contract;

32 for any period beginning after December 31, 2008.

33       **Sec. 2.** The tax for public safety services shall be determined  
34 based on any combination of the following:

35           (1) The acreage or frontage of land.

36           (2) The relative police or fire risk of property, as determined  
37 by insurance ratings and other information available to the  
38 eligible entity.

39           (3) The relative costs of purchasing or leasing special facilities  
40 or equipment to deliver public safety services to property.

41       **Sec. 3.** The taxes for public safety services do not have to be  
42 uniform throughout the eligible entity or for all users. The

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legislative body of an eligible entity may exercise reasonable discretion in:

- (1) adopting different schedules of taxes; or
- (2) making classifications in schedules of taxes:
  - (A) based on variations in the costs, including capital expenditures required, of furnishing the services to various classes of users or to various locations in the eligible entity;
  - or
  - (B) where there are variations in the number of users in various locations in the eligible entity.

Sec. 4. If services will not be provided until after a capital improvement is completed, an eligible entity may bill and collect taxes for the services to be provided after the contract for construction of the capital improvement has been let and actual work commenced in an amount sufficient to meet the interest on the revenue bonds and other expenses payable before the completion of the capital improvement.

Sec. 5. Unless the eligible entity finds and directs otherwise, public safety services are considered to benefit every:

- (1) lot;
  - (2) parcel of land; and
  - (3) building or other real property improvement;
- in the eligible entity. The taxes shall be billed and collected accordingly.

Sec. 6. (a) The legislative body of an eligible entity shall, by ordinance, or, in the case of a township or fire protection district, by resolution establish just and equitable taxes for the use of the public safety services provided by the eligible entity. The taxes are payable by the owner of each lot, parcel of land, or building or other real property improvement that:

- (1) is in the eligible entity; or
- (2) in any way uses or is served by the eligible entity.

(b) The legislative body of an eligible entity may periodically change and readjust the taxes as provided in this article.

Sec. 7. (a) For the purposes of this chapter, just and equitable taxes are those that produce sufficient revenue to provide revenue for not more than fifty percent (50%) of the following:

- (1) All expenses incident to the delivery of public safety services.
- (2) A sinking fund for the liquidation of bonds or other evidence of indebtedness and reserves against default in the payment of interest and principal of bonds; and

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(3) Adequate money to be used as working capital and money for making improvements, additions, extensions, and replacements.

(b) Taxes too low to meet the financial requirements described in subsection (a) are unlawful. The initial taxes established after notice and hearing under this article are prima facie just and equitable.

Sec. 8. The initial taxes may be established under this article only after a public hearing at which all the:

- (1) property owners to be served by the eligible entity; and
- (2) others interested;

have an opportunity to be heard concerning the proposed taxes.

Sec. 9. After introduction of the ordinance or resolution initially establishing taxes but before the ordinance or resolution is finally adopted, notice of the hearing setting forth the proposed schedule of the taxes must be given by publication one (1) time each week for two (2) weeks in a newspaper of general circulation in the eligible entity. The last publication must be at least seven (7) days before the date fixed in the notice for the hearing. The hearing may be adjourned as necessary.

Sec. 10. (a) The ordinance or resolution establishing the initial taxes, either as:

- (1) originally introduced; or
- (2) modified and amended;

must be passed and put into effect after the hearing.

(b) A copy of the schedule of the taxes established must be:

- (1) kept on file in the principal office of the eligible entity; and
- (2) open to public inspection.

Sec. 11. (a) The taxes established for a class of users of property served shall be extended to cover any additional property served after the taxes are established that are in the same class without the necessity of hearing or notice.

(b) A change or readjustment of the taxes may be made in the same manner as the taxes were originally established.

Sec. 12. Taxes imposed under this article that result in revenue exceeding the amount of just and equitable taxes permitted under section 7 of this chapter are not void. The excess shall be deposited in the political subdivision's rainy day fund and used as required under IC 6-1.2-7-3.

#### Chapter 6. Liens for Taxes

Sec. 1. The taxes made, assessed, or established under this article against:

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1           (1) a lot;  
 2           (2) a parcel of land; or  
 3           (3) a building or other real property improvement;  
 4 in an eligible entity or served by an eligible entity is a lien against  
 5 the lot, parcel of land, or building or other real property  
 6 improvement.

7           Sec. 2. Except as provided in sections 5 and 6 of this chapter, a  
 8 lien under section 1 of this chapter attaches at the time of the  
 9 recording of the list in the county recorder's office as provided in  
 10 IC 6-1.7-7. The lien:

11           (1) is superior to and takes precedence over all other liens  
 12 except a lien for taxes; and

13           (2) shall be enforced under this article.

14           Sec. 3. If taxes are not paid within the time fixed by the eligible  
 15 entity, the taxes become delinquent, and a penalty of ten percent  
 16 (10%) of the amount of the taxes attaches to the taxes. The eligible  
 17 entity may recover:

18           (1) the amount due;

19           (2) the penalty; and

20           (3) reasonable attorney's fees;

21 in a civil action in the name of the eligible entity.

22           Sec. 4. The taxes, together with the penalty, are collectible in the  
 23 manner provided by this article.

24           Sec. 5. (a) A tax is not enforceable as a lien against a subsequent  
 25 owner of property unless the lien for the tax was recorded with the  
 26 county recorder before the conveyance to the subsequent owner.

27           (b) If the property is conveyed before the lien can be filed, the  
 28 officer of the eligible entity who is charged with the collection of  
 29 the tax shall notify the person who owned the property at the time  
 30 the tax became payable. The notice must inform the person that  
 31 payment, including penalty fees for delinquencies, is due not less  
 32 than fifteen (15) days after the date of the notice. If payment is not  
 33 received before one hundred eighty (180) days after the date of the  
 34 notice have elapsed, the amount due may be expensed as a bad debt  
 35 loss.

36           Sec. 6. (a) This section applies whenever a property owner has  
 37 notified the eligible entity by certified mail with return receipt  
 38 requested of the address to which the owner's notice is to be sent.

39           (b) A lien does not attach against a lot, parcel of land, or  
 40 building or other real property improvement occupied by someone  
 41 other than the owner unless the officer of the eligible entity who is  
 42 charged with the collection of taxes notifies the owner of the

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property after the taxes have become sixty (60) days delinquent.

**Sec. 7. (a) The eligible entity shall release:**

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent taxes incurred by the seller; on receipt of a verified demand in writing from the purchaser.

**(b) The demand must state the following:**

(1) That the delinquent taxes were not incurred by the purchaser as a user, lessee, or previous owner.

(2) That the purchaser has not been paid by the seller for the delinquent taxes.

#### **Chapter 7. Enforcement of Delinquencies**

**Sec. 1. This chapter applies only to taxes or penalties that have been due and unpaid for at least ninety (90) days.**

**Sec. 2. The officer of the eligible entity who is charged with the collection of the taxes shall enforce payment of the taxes. The officer shall, not more than two (2) times in a year, prepare a list of the delinquent taxes, including the amount of the penalty, that are enforceable under this chapter. The list must include the following:**

(1) The name of each owner of each lot or parcel of real property on which the taxes have become delinquent.

(2) The description of the property as shown by the records of the office of the county auditor.

(3) The amount of the taxes, together with the amount of the penalty.

**Sec. 3. (a) The officer of the eligible entity shall record a copy of the list in the office of the county recorder.**

**(b) The county recorder shall charge a fee for recording the list in accordance with the fee schedule established in IC 36-2-7-10.**

**(c) After recording the list, the officer shall mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded.**

**(d) This subsection applies only to a county that does not contain a consolidated city. A service charge of five dollars (\$5), which is in addition to the recording fee charged under this section and section 6 of this chapter, shall be added to each delinquent tax that is recorded.**

**Sec. 4. (a) This section applies only to a county containing a consolidated city.**

**(b) Using the lists prepared and recorded under sections 2 and 3 of this chapter, the officer of the eligible entity shall certify to the**

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1 county auditor a list of the liens that remain unpaid according to  
2 the following schedule:

3 (1) Liens recorded on or after August 1 of the preceding year  
4 and before February 1 of the current year shall be certified  
5 before March 1 of each year for collection in May of the same  
6 year.

7 (2) Liens recorded on or after February 1 of the current year  
8 and before August 1 of the current year shall be certified  
9 before September 1 of each year for collection in November  
10 of the same year.

11 (c) The county and the officers and employees of the county are  
12 not liable for any material error in the information on the list  
13 prepared under subsection (b).

14 Sec. 5. (a) This section applies only to a county that does not  
15 contain a consolidated city.

16 (b) Using the lists prepared and recorded under sections 2 and  
17 3 of this chapter:

18 (1) after April 1 of the preceding year; and

19 (2) before April 1 of the current year;

20 the officer of the eligible entity shall, before June 1 of each year,  
21 certify to the county auditor a list of the liens that remain unpaid  
22 for collection in the next November.

23 (c) The county and the officers and employees of the county are  
24 not liable for any material error in the information on the list.

25 Sec. 6. (a) The officer of the eligible entity shall release a  
26 recorded lien when the:

27 (1) delinquent taxes;

28 (2) penalties;

29 (3) service charges; and

30 (4) recording fees;

31 have been fully paid.

32 (b) The county recorder shall charge a fee for releasing the lien  
33 in accordance with IC 36-2-7-10.

34 Sec. 7. (a) This subsection applies to a county that does not  
35 contain a consolidated city. On receipt of the list under section 5 of  
36 this chapter, the county auditor shall add a fifteen dollar (\$15)  
37 certification fee for each lot or parcel of real property on which  
38 taxes are delinquent. The certification fee is in addition to all other  
39 fees and taxes. The county auditor shall immediately enter on the  
40 tax duplicate for the municipality the:

41 (1) delinquent taxes;

42 (2) penalties;

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1 (3) service charges;  
 2 (4) recording fees; and  
 3 (5) certification fees;  
 4 that are due not later than the due date of the next November  
 5 installment of property taxes.

6 (b) This subsection applies to a county having a consolidated  
 7 city. On receipt of the list under section 4 of this chapter, the  
 8 county auditor shall enter on the tax duplicate the:

9 (1) delinquent taxes;  
 10 (2) penalties;  
 11 (3) service charges; and  
 12 (4) recording fees;  
 13 that are due not later than the due date of the next installment of  
 14 property taxes.

15 (c) The county treasurer shall include any unpaid charges for  
 16 the:

17 (1) delinquent tax;  
 18 (2) penalty;  
 19 (3) service charge;  
 20 (4) recording fee; and  
 21 (5) certification fee;  
 22 for each owner of each lot or parcel of property at the time the next  
 23 cycle's property tax installment is billed.

24 Sec. 8. (a) This section does not apply to a county containing a  
 25 consolidated city.

26 (b) After June 1 of each year, the officer of the eligible entity  
 27 may not collect or accept:

28 (1) delinquent taxes;  
 29 (2) penalties;  
 30 (3) service charges;  
 31 (4) recording fees; or  
 32 (5) certification fees;  
 33 from property owners whose property has been certified to the  
 34 county auditor.

35 Sec. 9. If a:

36 (1) delinquent tax;  
 37 (2) penalty;  
 38 (3) service charge;  
 39 (4) recording fee; or  
 40 (5) certification fee;  
 41 is not paid, the county treasurer shall collect the unpaid money in  
 42 the same way that delinquent property taxes are collected.

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1       **Sec. 10. (a) At the time of each semiannual tax settlement, the**  
 2       **county treasurer shall certify to the county auditor all:**

- 3           (1) taxes;  
 4           (2) fees and charges; and  
 5           (3) penalties;  
 6       **that have been collected.**

7       **(b) The county auditor shall:**

- 8           (1) deduct the service charges and certification fees collected  
 9           by the county treasurer; and  
 10          (2) pay to the officer of the eligible entity the remaining taxes  
 11          and penalties due the eligible entity.

12       **(c) The county treasurer shall:**

- 13          (1) retain the service charges and certification fees that have  
 14          been collected; and  
 15          (2) deposit the charges and taxes in the county general fund.

16       **Sec. 11. (a) This section applies to a:**

- 17          (1) tax;  
 18          (2) penalty; or  
 19          (3) service charge;

20       **that was not recorded before a recorded conveyance.**

21       **(b) The:**

- 22          (1) tax;  
 23          (2) penalty; or  
 24          (3) service charge;

25       **shall be removed from the tax roll for a purchaser who, in the**  
 26       **manner prescribed by IC 6-1.7-6-7, files a verified demand with the**  
 27       **county auditor.**

28       **Chapter 8. Foreclosure of Liens**

29       **Sec. 1. An eligible entity may, as an additional or alternative**  
 30       **remedy, foreclose a lien established by this article as a means of**  
 31       **collection of taxes, including the penalty on the taxes.**

32       **Sec. 2. (a) In all actions brought to foreclose the liens, the**  
 33       **eligible entity is entitled to recover the following:**

- 34          (1) The amount of the taxes.  
 35          (2) The penalty on the taxes.  
 36          (3) Reasonable attorney's fees.

37       **(b) The court shall order that the sale be made without relief**  
 38       **from valuation or appraisal statutes.**

39       **Sec. 3. Except as otherwise provided by this article, the**  
 40       **following apply in all actions to foreclose the liens:**

- 41          (1) The laws concerning municipal public improvement  
 42          assessments.

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(2) The rights, remedies, procedure, and relief granted the parties to the action.

SECTION 9. IC 6-1.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

## **ARTICLE 1.8. COMMERCIAL ACTIVITY TAX**

### **Chapter 1. Definitions**

Sec. 1. Except as provided in section 9 of this chapter, the definitions in this article apply throughout this article.

Sec. 2. (a) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subarticle S subsidiaries, qualified subarticle S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(b) The term does not include nonprofit organizations or the state, its agencies, its instrumentalities, and its political subdivisions.

Sec. 3. "Consolidated elected taxpayer" means a group of two (2) or more persons treated as a single taxpayer for purposes of this article as the result of an election made under this article.

Sec. 4. "Combined taxpayer" means a group of two (2) or more persons treated as a single taxpayer for purposes of this article.

Sec. 5. "Fund" refers to the local government distribution fund established by IC 6-1.8-8-1.

Sec. 6. (a) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one (1) taxpayer, required to register or pay tax under this article.

(b) The term does not include excluded persons.

Sec. 7. (a) Except as otherwise provided in this article, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(b) The following are examples of gross receipts:

(1) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another.

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(2) Amounts realized from the taxpayer's performance of services for another.

(3) Amounts realized from another's use or possession of the taxpayer's property or capital.

(4) Any combination of the foregoing amounts.

Sec. 8. "Gross receipts" excludes the following amounts:

(1) Interest income except interest on credit sales.

(2) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass through entity.

(3) Receipts from the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding Section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to:

(A) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations;

(B) interest rate fluctuations; or

(C) commodity price fluctuations.

As used in this subdivision, "hedging transaction" has the same meaning as used in Section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of Financial Accounting Standards number 133 of the Financial Accounting Standards Board. The actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(4) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument.

(5) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person.

(6) Contributions received by a trust, plan, or other arrangement, any of which is described in Section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Article 1, Subarticle (D) of the Internal Revenue Code applies.

(7) Compensation, whether current or deferred, and whether

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1 in cash or in kind, received or to be received by an employee,  
 2 former employee, or the employee's legal successor for  
 3 services rendered to or for an employer, including  
 4 reimbursements received by or for an individual for medical  
 5 or educational expenses, health insurance premiums, or  
 6 employee expenses, or on account of a dependent care  
 7 spending account, legal services plan, any cafeteria plan  
 8 described in Section 125 of the Internal Revenue Code, or any  
 9 similar employee reimbursement.

10 (8) Proceeds received from the issuance of the taxpayer's own  
 11 stock, options, warrants, puts, or calls, or from the sale of the  
 12 taxpayer's treasury stock.

13 (9) Proceeds received on the account of payments from life  
 14 insurance policies.

15 (10) The following:

16 (A) Gifts or charitable contributions received, membership  
 17 dues received, and payments received for educational  
 18 courses, meetings, meals, or similar payments to a trade,  
 19 professional, or other similar association.

20 (B) Fundraising receipts received by any person when any  
 21 excess receipts are donated or used exclusively for  
 22 charitable purposes.

23 (C) Proceeds received by a religious or other nonprofit  
 24 organization, including proceeds realized with regard to its  
 25 unrelated business taxable income.

26 (11) Damages received as the result of litigation in excess of  
 27 amounts that, if received without litigation, would be gross  
 28 receipts.

29 (12) Property, money, and other amounts received or  
 30 acquired by an agent on behalf of another in excess of the  
 31 agent's commission, fee, or other remuneration.

32 (13) Tax refunds, other tax benefit recoveries, and  
 33 reimbursements for the tax imposed under this article made  
 34 by entities that are part of the same combined taxpayer or  
 35 consolidated elected taxpayer group, and reimbursements  
 36 made by entities that are not members of a combined  
 37 taxpayer or consolidated elected taxpayer group that are  
 38 required to be made for economic parity among multiple  
 39 owners of an entity whose tax obligation under this article is  
 40 required to be reported and paid entirely by one (1) owner,  
 41 under the requirements of this article.

42 (14) Pension reversions.

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1 (15) Contributions to capital.

2 (16) Sales or use taxes collected as a vendor or an out-of-state  
3 seller on behalf of the taxing jurisdiction from a consumer or  
4 other taxes the taxpayer is required by law to collect directly  
5 from a purchaser and remit to a local, state, or federal tax  
6 authority.

7 (17) In the case of receipts from the sale of cigarettes or  
8 tobacco products by a wholesale dealer, retail dealer,  
9 distributor, manufacturer, or seller, subject to IC 6-7, an  
10 amount equal to the federal and state excise taxes paid by any  
11 person on or for such cigarettes or tobacco products under  
12 subtitle E of the Internal Revenue Code or IC 6-7.

13 (18) In the case of receipts from the sale of motor fuel,  
14 gasoline, or special fuels by a person subject to IC 6-6-1.1,  
15 IC 6-6-2.1, or IC 6-6-4.1, an amount equal to federal and state  
16 excise taxes paid by any person on such motor fuel, gasoline,  
17 or special fuel under Section 4081 of the Internal Revenue  
18 Code, IC 6-6-1.1, IC 6-6-2.1, or IC 6-6-4.1.

19 (19) In the case of receipts from the sale of beer or  
20 intoxicating liquor subject to IC 7.1 by a person holding a  
21 permit issued under IC 7.1, an amount equal to federal and  
22 state excise taxes paid by any person on or for such beer or  
23 intoxicating liquor under subtitle E of the Internal Revenue  
24 Code or IC 7.1.

25 (20) Receipts realized by a new motor vehicle dealer or used  
26 motor vehicle dealer, from the sale or other transfer of a  
27 motor vehicle, to another motor vehicle dealer for the purpose  
28 of resale by the transferee motor vehicle dealer, but only if the  
29 sale or other transfer was based upon the transferee's need to  
30 meet a specific customer's preference for a motor vehicle.

31 (21) Receipts from a financial institution subject to the  
32 financial institutions tax under IC 6-5.5 for services provided  
33 to the financial institution in connection with the issuance,  
34 processing, servicing, and management of loans or credit  
35 accounts, if such financial institution and the recipient of such  
36 receipts have at least fifty percent (50%) of their ownership  
37 interests owned or controlled, directly or constructively  
38 through related interests, by common owners.

39 (22) Receipts realized from administering anti-neoplastic  
40 drugs and other cancer chemotherapy, biologicals,  
41 therapeutic agents, and supportive drugs in a physician's  
42 office to patients with cancer.

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(23) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, under a table funding mortgage loan or warehouse lending mortgage loan. As used in this subdivision, "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table funding or warehouse lending mortgage loans that are first lien mortgage loans.

(24) Property, money, and other amounts received by a professional employer organization from a client employer in excess of the administrative fee charged by the professional employer organization to the client employer.

(25) In the case of amounts retained as commissions by a permit holder under IC 4-31, an amount equal to the amounts specified under that article that must be paid to or collected as a tax and the amounts specified under that article to be used as purse money.

(26) Qualifying distribution center receipts.

(27) Any receipts for which the tax imposed by this article is prohibited by the Constitution or laws of the United States or the Constitution of the State of Indiana.

(28) Receipts subject to a financial institutions tax under IC 6-5.5 based on one (1) or more measurement periods that include the entire tax period under this article.

(29) Receipts subject to a utility receipts tax under IC 6-2.3.

(30) Receipts subject to an insurance premiums tax under IC 27-1-18-2 based on one (1) or more measurement periods that include the entire tax period under this article.

(31) Receipts of a person that solely facilitates or services one (1) or more securitizations or similar transactions for any person described in subdivision (28). For purposes of this subdivision, "securitization" means transferring one (1) or more assets to one (1) or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

**Sec. 9. (a)** For purposes of this section and section 8(26) of this chapter, the following definitions apply:

(1) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one (1) minus the Indiana delivery percentage.

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(2) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in Indiana or elsewhere.

(3) "Further shipping" includes storing and repackaging qualified property into smaller or larger bundles, so long as the property is not subject to further manufacturing or processing.

(4) "Qualified distribution center" means a warehouse or other similar facility in Indiana that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one (1) mile of each other shall be treated as one (1) qualified distribution center.

(5) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(6) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(7) "Qualifying certificate" means an annual application approved by the department from an operator of a distribution center that has filed an application as prescribed by the department and paid the annual fee for the qualifying certificate on or before the first day of September prior to the qualifying year or forty-five (45) days after the opening of the distribution center, whichever is later. The application and annual fee shall be filed and paid for each qualified distribution center. The applicant must substantiate to the department's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty percent (50%) of the cost of the qualified property shipped to a location such that it would be situated outside Indiana under the provisions of this article. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars (\$500,000,000) during the qualifying period. (For purposes of this subdivision, "supplier" excludes any person that is part of the consolidated elected taxpayer group,

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1 if applicable, of the operator of the qualified distribution  
 2 center.) The department may require the applicant to have an  
 3 independent certified public accountant certify that the  
 4 calculation of the minimum thresholds required for a  
 5 qualified distribution center by the operator of a distribution  
 6 center has been made in accordance with generally accepted  
 7 accounting principles. The department shall issue or deny the  
 8 issuance of a certificate within sixty (60) days after the receipt  
 9 of the application. A denial is subject to appeal under  
 10 IC 6-8.1. If the operator files a timely appeal, the operator  
 11 shall be granted a qualifying certificate, provided that the  
 12 operator is liable for any tax, interest, or penalty upon  
 13 amounts claimed as qualifying distribution center receipts,  
 14 other than those receipts exempt under this article, that would  
 15 have otherwise not been owed by its suppliers if the qualifying  
 16 certificate was valid.

17 (8) "Indiana delivery percentage" means the proportion of  
 18 the total property delivered to a destination inside Indiana  
 19 from the qualified distribution center during the qualifying  
 20 period compared with total deliveries from the qualified  
 21 distribution center everywhere during the qualifying period.

22 (b) If the distribution center is new and was not open for the  
 23 entire qualifying period, the operator of the distribution center  
 24 may request that the department grant a qualifying certificate. If  
 25 the certificate is granted and it is later determined that more than  
 26 fifty percent (50%) of the qualified property during that year was  
 27 not shipped to a location such that it would be situated outside  
 28 Indiana under the provisions of this article or if it is later  
 29 determined that the person that operates the distribution center  
 30 had average monthly costs from its suppliers of less than forty  
 31 million dollars (\$40,000,000) during that year, then the operator of  
 32 the distribution center shall be liable for any tax, interest, or  
 33 penalty upon amounts claimed as qualifying distribution center  
 34 receipts, other than those receipts exempt under this article that  
 35 would have not otherwise been owed by its suppliers during the  
 36 qualifying year if the qualifying certificate was valid. (For purposes  
 37 of this subsection, "supplier" excludes any person that is part of  
 38 the consolidated elected taxpayer group, if applicable, of the  
 39 operator of the qualified distribution center.)

40 (c) When filing an application for a qualifying certificate under  
 41 this section, the operator of a qualified distribution center also  
 42 shall provide documentation, as the department requires, for the

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1 department to ascertain the Indiana delivery percentage. The  
 2 department, upon issuing the qualifying certificate, also shall  
 3 certify the Indiana delivery percentage. The operator of the  
 4 qualified distribution center may appeal the department's  
 5 certification of the Indiana delivery percentage in the same manner  
 6 as an appeal is taken from the denial of a qualifying certificate  
 7 under this section

8 (d) Within thirty (30) days after all appeals have been  
 9 exhausted, the operator of the qualified distribution center shall  
 10 notify the affected suppliers of qualified property that the suppliers  
 11 are required to file, within sixty (60) days after receiving notice  
 12 from the operator of the qualified distribution center, amended  
 13 reports for the impacted calendar quarter or quarters or calendar  
 14 year, whichever the case may be. Any additional tax liability or tax  
 15 overpayment shall be subject to interest but shall not be subject to  
 16 the imposition of any penalty so long as the amended returns are  
 17 timely filed. The supplier of tangible personal property delivered  
 18 to the qualified distribution center shall include in its report of  
 19 taxable gross receipts the receipts from the total sales of property  
 20 delivered to the qualified distribution center for the calendar  
 21 quarter or calendar year, whichever the case may be, multiplied by  
 22 the Indiana delivery percentage for the qualifying year. Nothing in  
 23 this section shall be construed as imposing liability on the operator  
 24 of a qualified distribution center for the tax imposed by this article  
 25 arising from any change to the Indiana delivery percentage.

26 (e) In the case where the distribution center is new and not open  
 27 for the entire qualifying period, the operator shall make a good  
 28 faith estimate of an Indiana delivery percentage for use by  
 29 suppliers in their reports of taxable gross receipts for the  
 30 remainder of the qualifying period. The operator of the facility  
 31 shall disclose to the suppliers that the Indiana delivery percentage  
 32 is an estimate and is subject to recalculation. By the due date of the  
 33 next application for a qualifying certificate, the operator shall  
 34 determine the actual Indiana delivery percentage for the estimated  
 35 qualifying period and proceed as provided in this section with  
 36 respect to the calculation and recalculation of the Indiana delivery  
 37 percentage. The supplier is required to file, within sixty (60) days  
 38 after receiving notice from the operator of the qualified  
 39 distribution center, amended reports for the impacted calendar  
 40 quarter or quarters or calendar year, whichever the case may be.  
 41 Any additional tax liability or tax overpayment shall be subject to  
 42 interest but shall not be subject to the imposition of any penalty so

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1 long as the amended returns are timely filed.

2 (f) Qualifying certificates and Indiana delivery percentages  
3 issued by the department shall be open to public inspection and  
4 shall be timely published by the department. A supplier relying in  
5 good faith on a certificate issued under this section is not subject to  
6 tax on the qualifying distribution center receipts under this section.  
7 If it is determined that a qualifying certificate should not have been  
8 issued because the statutory requirements were in fact not met, a  
9 person receiving the qualifying certificate is responsible for paying  
10 the tax, interest, and penalty upon amounts claimed as qualifying  
11 distribution center receipts that would not otherwise have been  
12 owed by the supplier if the qualifying certificate were available.

13 (g) The annual fee for a qualifying certificate shall be one  
14 hundred thousand dollars (\$100,000) for each qualified distribution  
15 center. If a qualifying certificate is not issued, the annual fee is  
16 subject to refund after the exhaustion of all appeals provided for  
17 by law. The fee imposed under this subsection may be assessed in  
18 the same manner as the tax imposed under this article.

19 (h) The department may require that adequate security be  
20 posted by the operator of the distribution center on appeal when  
21 the department disagrees that the applicant has met the minimum  
22 thresholds for a qualified distribution center.

23 Sec. 10. In the case of a taxpayer when acting as a real estate  
24 broker, "gross receipts" includes only the portion of any fee for the  
25 service of a real estate broker, or service of a real estate  
26 salesperson associated with that broker, that is retained by the  
27 broker and not paid to an associated real estate salesperson or  
28 another real estate broker.

29 Sec. 11. (a) A taxpayer's method of accounting for gross receipts  
30 for a tax period shall be the same as the taxpayer's method of  
31 accounting for federal income tax purposes for the taxpayer's  
32 federal taxable year that includes the tax period. If a taxpayer's  
33 method of accounting for federal income tax purposes changes, the  
34 taxpayer's method of accounting for gross receipts under this  
35 article shall be changed accordingly.

36 (b) In calculating gross receipts, the following shall be deducted  
37 to the extent included as a gross receipt in the current tax period  
38 or reported as taxable gross receipts in a prior tax period:

39 (1) Cash discounts allowed and taken.

40 (2) Returns and allowances.

41 (3) Bad debts. For the purposes of this subdivision, "bad  
42 debts" mean any debts that have become worthless or

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1 uncollectible between the preceding and current quarterly tax  
 2 payment periods, have been uncollected for at least six (6)  
 3 months, and may be claimed as a deduction under Section 166  
 4 of the Internal Revenue Code and the regulations adopted  
 5 under this section, or that could be claimed as such if the  
 6 taxpayer kept its accounts on the accrual basis. "Bad debts"  
 7 does not include uncollectible amounts on property that  
 8 remains in the possession of the taxpayer until the full  
 9 purchase price is paid, expenses in attempting to collect any  
 10 account receivable or for any portion of the debt recovered,  
 11 and repossessed property.

12 (4) Any amount realized from the sale of an account  
 13 receivable but only to the extent the receipts from the  
 14 underlying transaction giving rise to the account receivable  
 15 were included in the gross receipts of the taxpayer.

16 Sec. 12. "Taxable gross receipts" means gross receipts sitused  
 17 to Indiana under this article.

18 Sec. 13. A person has "substantial nexus with Indiana" if the  
 19 person qualifies under any of the following:

- 20 (1) Owns or uses a part or all of its capital in Indiana.
- 21 (2) Holds a certificate of compliance with the laws of Indiana
- 22 authorizing the person to do business in Indiana.
- 23 (3) Has bright line presence in Indiana.
- 24 (4) Otherwise has nexus with Indiana to an extent that the
- 25 person can be required to remit the tax imposed under this
- 26 article under the Constitution of the United States.

27 Sec. 14. A person has "bright line presence" in Indiana for a  
 28 reporting period and for the remaining part of the calendar year  
 29 if the person meets any of the following:

- 30 (1) Has at any time during the calendar year property in
- 31 Indiana with an aggregate value of at least fifty thousand
- 32 dollars (\$50,000). For the purpose of this subdivision, owned
- 33 property is valued at original cost, and rented property is
- 34 valued at eight (8) times the net annual rental charge.
- 35 (2) Has during the calendar year payroll in Indiana of at least
- 36 fifty thousand dollars (\$50,000). Payroll in Indiana includes
- 37 all of the following:
- 38 (A) Any amount subject to withholding by the person
- 39 under IC 6-3.
- 40 (B) Any other amount the person pays as compensation to
- 41 an individual under the supervision or control of the
- 42 person for work done in Indiana.

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(C) Any amount the person pays for services performed in Indiana on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars (\$500,000).

(4) Has at any time during the calendar year within Indiana at least twenty-five percent (25%) of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in Indiana as an individual or for corporate, commercial, or other business purposes.

Sec. 15. "Calendar quarter" means a three (3) month period ending on March 31, June 30, September 30, or December 31.

Sec. 16. "Tax period" means the period over which a taxpayer is required to pay the tax imposed under this article.

Sec. 17. "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

(1) A person receiving a fee to sell financial instruments.

(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person.

(3) A lottery sales agent holding a valid Indiana license.

Sec. 18. "Received" includes amounts accrued under the accrual method of accounting.

Sec. 19. "Pass through entity" means:

(1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or

(2) a:

(A) partnership;

(B) trust;

(C) limited liability company; or

(D) limited liability partnership;

that is not treated as a corporation under IC 6-3.

Sec. 20. "Department" refers to the department of state revenue.

Sec. 21. "Taxing unit" means a political subdivision described in IC 6-1.2-1-1.

## Chapter 2. Combined Returns

Sec. 1. A group of two (2) or more persons may elect to be a consolidated elected taxpayer for purposes of this article if the group satisfies all of the following requirements:

(1) The group elects to include all persons having at least fifty percent (50%) of the value of their ownership interests owned

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or controlled, directly or constructively through related interests, by common owners during all or any part of the tax period, together with the common owners. At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the elected ownership test shall either be included in the group or all shall be excluded from the group. The group shall notify the department of the foregoing elections before the due date of the return in which the election is to become effective. If fifty percent (50%) of the value of a person's ownership interests is owned or controlled by each of two (2) consolidated elected taxpayer groups formed under the fifty percent (50%) ownership or control test, that person is a member of each group for the purposes of this chapter, and each group shall include in the group's taxable gross receipts fifty percent (50%) of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty percent (50%) of the value of a person's ownership interests by two (2) otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under section 3 of this chapter of taxable gross receipts between members of the two (2) groups. Subdivision (3) applies with respect to the elections described in this subdivision.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under section 5 of this chapter.

(3) Subject to review and audit by the department, the group agrees that all of the following apply:

(A) The group shall file reports as a single taxpayer for at least the next eight (8) calendar quarters following the election so long as at least two (2) of the members of the group meet the requirements of this subdivision.

(B) Before the expiration of the eighth such calendar quarter, the group shall notify the department if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the department, the election remains in effect for another eight (8) calendar quarters.

(C) If, at any time during any of those eight (8) calendar

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quarters following the election, a former member of the group no longer meets the requirements under subdivision (1), that member shall report and pay the tax imposed under this article separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(D) The group agrees to the application of section 2 of this chapter.

Sec. 2. A group of persons making the election under this chapter shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with Indiana does not exist for one (1) or more persons in the group.

Sec. 3. (a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) As used in this section, "dealer transfer" means a transfer of property that satisfies both of the following:

(1) The property is directly transferred by any means from one (1) member of the group to another member of the group that is a dealer in intangibles.

(2) The property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(c) In the event of a dealer transfer, a consolidated elected taxpayer group shall not exclude, under this section, gross receipts from the transfer described in subsection (b)(1).

Sec. 4. Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under section 3 of this chapter if all other requirements of that section are met, even if the receipts are from and to the same member of the group.

Sec. 5. (a) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the department of the election in the manner prescribed by the department. The election shall be made before the later of the beginning of the first calendar quarter to which the election applies or July 1, 2008.

(b) The election shall be made on a form prescribed by the department for that purpose and shall be signed by one (1) or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

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(c) Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of this chapter, and the group shall notify the department of any additions to the group with the next tax return it files with the department.

Sec. 6. Each member of a consolidated elected taxpayer is jointly and severally liable for the tax imposed by this article and any penalties or interest thereon. The department may require one (1) person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under IC 6-8.1.

Sec. 7. All persons, other than exempt persons, having more than fifty percent (50%) of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer under an election under this chapter.

Sec. 8. A combined taxpayer shall register, file returns, and pay taxes under this article as a single taxpayer.

Sec. 9. A combined taxpayer shall not exclude taxable gross receipts for transactions between its members or for transactions with others that are not members.

Sec. 10. (a) A combined taxpayer shall pay to the department a registration fee equal to the lesser of two hundred dollars (\$200) or twenty dollars (\$20) for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars (\$200). The fee shall be timely paid before the later of the beginning of the first calendar quarter or July 1, 2008.

(b) Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of section 1 of this chapter, and the group must notify the department of any additions with the next quarterly tax return it files with the department.

Sec. 11. Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this article and any penalties or interest thereon. The department may require one (1) person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under IC 6-8.1.

Chapter 3. Property Transferred Into Indiana

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1       **Sec. 1. Except as provided in this chapter, the following apply:**

2           **(1) A person shall include as taxable gross receipts the value**  
 3           **of property the person transfers into Indiana for the person's**  
 4           **own use within one (1) year after the person receives the**  
 5           **property outside Indiana.**

6           **(2) In the case of an elected consolidated taxpayer or a**  
 7           **combined taxpayer, the taxpayer shall include as taxable**  
 8           **gross receipts the value of property that any of the taxpayer's**  
 9           **members transferred into Indiana for the use of any of the**  
 10           **taxpayer's members within one (1) year after the taxpayer**  
 11           **receives the property outside Indiana.**

12       **Sec. 2. Property brought into Indiana within one (1) year after**  
 13       **it is received outside Indiana by a person or group described in this**  
 14       **chapter shall not be included as taxable gross receipts as required**  
 15       **under those divisions if the department ascertains that the**  
 16       **property's receipt outside Indiana by the person or group followed**  
 17       **by its transfer into Indiana within one (1) year was not intended in**  
 18       **whole or in part to avoid in whole or in part the tax imposed under**  
 19       **this article.**

20       **Sec. 3. The department may adopt rules under IC 4-22-2**  
 21       **necessary to administer this chapter.**

22       **Chapter 4. Imposition of Tax**

23       **Sec. 1. Beginning with the tax period that commences July 1,**  
 24       **2008, and continuing for every tax period thereafter, there is levied**  
 25       **a commercial activity tax on each person with taxable gross**  
 26       **receipts for the privilege of doing business in Indiana. For purposes**  
 27       **of this article, "doing business" means engaging in any activity,**  
 28       **whether legal or illegal, that is conducted for, or results in, gain,**  
 29       **profit, or income, at any time during the calendar year. Persons on**  
 30       **which the commercial activity tax is levied include, but are not**  
 31       **limited to, persons with substantial nexus with Indiana. The tax**  
 32       **imposed under this section is not a transactional tax and is not**  
 33       **subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed**  
 34       **under this section is in addition to any other taxes or fees imposed**  
 35       **by law. The tax levied under this section is imposed on the person**  
 36       **receiving the gross receipts and is not a tax imposed directly on a**  
 37       **purchaser. The tax imposed by this section is an annual privilege**  
 38       **tax for the calendar year that, in the case of calendar year**  
 39       **taxpayers, is the annual tax period and, in the case of calendar**  
 40       **quarter taxpayers, contains all quarterly tax periods in the**  
 41       **calendar year. A taxpayer is subject to the annual privilege tax for**  
 42       **doing business during any portion of such calendar year.**

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1        **Sec. 2.** The tax imposed by this chapter is a tax on the taxpayer  
 2 and shall not be billed or invoiced to another person. Even if the  
 3 tax or any part of the tax is billed or invoiced and separately  
 4 stated, the amounts remain part of the price for purposes of the  
 5 sales and use taxes levied under IC 6-2.5. Nothing in this chapter  
 6 prohibits a person from including in the price charged for a good  
 7 or service an amount sufficient to recover the tax imposed by this  
 8 chapter.

9        **Sec. 3.** Except as provided in this article, the tax levied under  
 10 this chapter for each tax period is the product of twenty-five  
 11 hundredths of one percent (0.25%) multiplied by the gross receipts  
 12 of the taxpayer.

13        **Sec. 4.** A taxpayer is entitled to a deduction against the gross  
 14 receipts that are subject to taxation in a calendar year under this  
 15 article. The amount of the deduction is equal to one thousand  
 16 dollars (\$1,000).

17        **Chapter 5. Situsing of Gross Receipts to Indiana**

18        **Sec. 1.** For the purposes of this article, gross receipts shall be  
 19 sitused to Indiana in the same manner that adjusted gross income  
 20 is sourced to Indiana under IC 6-3-2.

21        **Sec. 2.** If the situsing provisions of this chapter do not fairly  
 22 represent the extent of a person's activity in this state, the person  
 23 may request, or the department may require or permit, an  
 24 alternative method. Such request by a person must be made within  
 25 the applicable statute of limitations set forth in this article.

26        **Sec. 3.** The department may adopt rules under IC 4-22-2 to  
 27 provide additional guidance to the application of this section, and  
 28 provide alternative methods of situsing gross receipts that apply to  
 29 all persons, or subset of persons, that are engaged in similar  
 30 business or trade activities.

31        **Chapter 6. Registration with Department; Fee**

32        **Sec. 1.** Not later than the later of July 1, 2008, or thirty (30) days  
 33 before the end of the first calendar quarter in which the taxpayer  
 34 has taxable gross receipts in a calendar year, each person subject  
 35 to this article shall register with the department on the form  
 36 prescribed by the department. However, the department shall  
 37 prescribe procedures that exempt a person that is reasonably likely  
 38 to have gross receipts of less than one thousand dollars  
 39 (\$1,000) in any calendar year from registering under this chapter.

40        **Sec. 2.** The form shall include the following:

41            (1) The person's name.

42            (2) If applicable, the name of the state or country under the

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laws of which the person is incorporated.

(3) If applicable, the location of a person's principal office and the name and address of the officer or agent of the corporation in charge of the business.

(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated under IC 23, with the post office address of each.

(5) The kind of business in which the person is engaged, including applicable business or industry codes.

(6) If required by the department, the date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year.

(7) If the person is not a corporation or a sole proprietor, the names of the person's owners and officers, if required by the department.

(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's Social Security number or equivalent.

(9) All other information that the department requires to administer and enforce this article.

Sec. 3. Except as otherwise provided in this chapter, a person registering with the department under this chapter may not be required to pay a fee.

Sec. 4. If a person that has registered under this chapter is no longer a taxpayer subject to this article, the person shall notify the department that the person's registration should be canceled.

#### Chapter 7. Filing

Sec. 1. (a) Not later than forty (40) days after the end of each calendar quarter, every taxpayer shall file with the department a tax return in such form as the department prescribes. The return shall include the amount of the taxpayer's taxable gross receipts for the calendar quarter and shall indicate the amount of tax due for the calendar quarter.

(b) A taxpayer shall pay the tax imposed by this article on taxable gross receipts for a calendar quarter with the return filed under subsection (a).

(c) A tax return shall not be considered to be an incorrect reporting of taxable gross receipts for the purposes of this chapter if the return reflects between ninety-five percent (95%) and one hundred five percent (105%) of the actual taxable gross receipts for the calendar quarter.

(d) The tax return filed for the fourth calendar quarter of a

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calendar year is the annual return for the privilege tax imposed by this article. The return shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year. If the taxpayer ceases to be a taxpayer before the end of the calendar year, the last return the taxpayer is required to file is the annual return for the taxpayer, and the taxpayer shall report any additional taxable gross receipts not previously reported in the calendar year and shall adjust for any over-reported taxable gross receipts in the calendar year.

Sec. 2. IC 6-8.1 applies to taxpayers under this article.

Sec. 3. (a) Any person remitting taxes exceeding ten thousand dollars (\$10,000) in any calendar quarter shall remit each tax payment and, if required by the department, file the tax return or the annual report electronically. The department may prescribe the means for taxpayers to file and remit the tax electronically.

(b) A person required by this section to remit taxes or file returns electronically may apply to the department, on the form prescribed by the department, to be excused from that requirement. The department may excuse a person from the requirements of this subsection for good cause.

(c) If a person required to remit taxes or file a return electronically under this section fails to do so, the department may impose a penalty not to exceed the following:

(1) For either of the first two (2) calendar quarters the person so fails, five percent (5%) of the amount of the payment that was required to be remitted.

(2) For the third and any subsequent calendar quarters the person so fails, ten percent (10%) of the amount of the payment that was required to be remitted.

(d) The penalty imposed under this section is in addition to any other penalty imposed under this article or IC 6-8.1 and shall be considered as revenue arising from the tax imposed under this article.

Sec. 4. (a) If any person liable for the tax imposed under this article sells the trade or business, disposes of in any manner other than in the regular course of business at least seventy-five percent (75%) of the assets of the trade or business, or quits the trade or business, any tax owed by such person shall become due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, within forty-five (45) days after the date of selling or quitting the trade or

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1 business. The person's successor shall withhold a sufficient amount  
 2 of the purchase money to cover the amount due and unpaid until  
 3 the former owner produces a receipt from the department showing  
 4 that the amounts are paid or a certificate indicating that no taxes  
 5 are due. If a purchaser fails to withhold purchase money, that  
 6 person is personally liable up to the purchase money amount, for  
 7 such amounts that are unpaid during the operation of the business  
 8 by the former owner.

9 (b) The department may adopt rules under IC 4-22-2 regarding  
 10 the issuance of certificates under this section, including the waiver  
 11 of the need for a certificate if certain criteria are met.

12 Sec. 5. (a) The department may prescribe requirements for the  
 13 keeping of records and other pertinent documents, the filing of  
 14 copies of federal income tax returns and determinations, and  
 15 computations reconciling federal income tax returns with the  
 16 returns and reports required by IC 6-8.1. The department may  
 17 require any person, by rule or notice served on that person, to keep  
 18 those records that the department considers necessary to show  
 19 whether, and the extent to which, a person is subject to this article.  
 20 Those records and other documents shall be open during business  
 21 hours to the inspection of the department and shall be preserved  
 22 for a period of four (4) years unless the department, in writing,  
 23 consents to their destruction within that period or by order  
 24 requires that they be kept longer. If such records are normally kept  
 25 by the person electronically, the person shall provide such records  
 26 to the department electronically at the department's request.

27 (b) Any information required by the department under this  
 28 article is confidential. However, the department shall make public  
 29 an electronic list of all actively registered persons required to remit  
 30 the tax under this article, including legal names, trade names,  
 31 addresses, and account numbers. In addition, the list must include  
 32 all persons that canceled their registration at any time during the  
 33 preceding four (4) calendar years, including the date the  
 34 registration was canceled.

### 35 Chapter 8. Deposits

36 Sec. 1. The local government distribution fund is established.  
 37 The department shall administer the fund.

38 Sec. 2. The treasurer of state may invest the money in the fund  
 39 not currently needed to meet the obligations of the fund in the same  
 40 manner as other public trust funds are invested. Interest that  
 41 accrues from the investments shall be allocated to and deposited in  
 42 the fund.

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1        **Sec. 3. Money in the fund at the end of a state fiscal year does**  
 2        **not revert to the state general fund.**

3        **Sec. 4. The net amount collected from the tax imposed under**  
 4        **this article, after making refunds and other adjustments for the**  
 5        **overpayment of taxes under this article, shall be deposited in the**  
 6        **local government distribution fund.**

7        **Sec. 5. After December 31, 2008, the department shall distribute**  
 8        **the balance in the fund at least monthly to taxing units.**

9        **Sec. 6. The amount to be distributed from the fund to a taxing**  
 10        **unit under this chapter is in proportion to the average value of**  
 11        **property used or held for a business purpose in the political**  
 12        **subdivision relative to the average value of property used or held**  
 13        **for a business purpose in all taxing units in Indiana. For purposes**  
 14        **of this section, the following apply:**

15        (1) **The value of property is the value determined in the**  
 16        **manner prescribed in IC 6-3-2-2 for the determination of the**  
 17        **property factor applicable to determining a taxpayer's**  
 18        **adjusted gross income derived from sources within Indiana**  
 19        **and reported to the department under this article.**

20        (2) **If property is located in more than one (1) taxing unit, the**  
 21        **value of the property shall be assigned to each taxing unit.**

22        (3) **The value of indefinite situs property shall be allocated**  
 23        **among political subdivisions in the manner provided in**  
 24        **IC 6-1.1-8.**

25        **Sec. 7. There is annually appropriated to the department from**  
 26        **the fund an amount sufficient to make the distributions required**  
 27        **by this chapter.**

28        **SECTION 10. IC 6-1.9 IS ADDED TO THE INDIANA CODE AS**  
 29        **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 30        **2008]:**

31        **ARTICLE 1.9. EMPLOYER PAYROLL EXPENSE TAX**

32        **Chapter 1. Definitions**

33        **Sec. 1. The definitions in this chapter apply throughout this**  
 34        **article.**

35        **Sec. 2. (a) "Compensation" means wages, salaries, commissions,**  
 36        **and any other form of remuneration paid to employees for**  
 37        **personal services rendered in Indiana, including self-employment**  
 38        **income (as defined in Section 1402 of the Internal Revenue Code).**

39        **(b) The term does not include remuneration:**

40        (1) **excluded from the federal definition of wages set forth at**  
 41        **Section 3401 of the Internal Revenue Code; or**

42        (2) **paid to a team member (as defined in IC 6-3-2-2.7) who**

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would not be subject to adjusted gross income tax if IC 6-3-2-2.7 were not in effect.

**Sec. 3. "Employee" means the following:**

- (1) An individual who is an employee (as defined in section 3401 of the Internal Revenue Code).
- (2) An individual who earns self-employment income (as defined in Section 1402 of the Internal Revenue Code).

**Sec. 4. (a) "Employer" means the following:**

- (1) An employer (as defined in Section 3401 of the Internal Revenue Code).
- (2) An individual who earns self-employment income (as defined in Section 1402 of the Internal Revenue Code).

**(b) The term does not include the following:**

- (1) The United States government.
- (2) An agency or instrumentality of the United States government.
- (3) The state.
- (4) A state agency (as defined in IC 34-6-2-141).
- (5) A body corporate and politic created by statute.
- (6) A political subdivision (as defined in IC 34-6-2-110).
- (7) A state educational institution (as defined in IC 21-7-13-32).
- (8) A nonprofit college or university (as defined in IC 21-17-1-10).
- (9) An organization described in Section 501(c)(3) of the Internal Revenue Code.
- (10) Any other entity that is organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes if no part of the entity's income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate of the entity. For purposes of this subdivision, the term "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

**Sec. 5. "Department" refers to the department of state revenue.**

**Sec. 6. "Fund" refers to the local government payroll distribution fund established under IC 6-1.9-4-1.**

**Sec. 7. "Tax" refers to an adjusted gross income tax imposed under this article.**

**Sec. 8. "Tax district" means a geographic area within which resident taxpayers are taxed under IC 6-1.6 by the same taxing units and at the same total rate**

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1        **Sec. 9. "Taxing unit" means a political subdivision described in**  
 2        **IC 6-1.2-1-1.**

3        **Chapter 2. Imposition of Tax**

4        **Sec. 1. An employer payroll expense tax is imposed on each**  
 5        **employer that pays compensation to one (1) or more employees**  
 6        **who:**

7            (1) are Indiana residents; or

8            (2) perform work or render services in whole or in part in  
 9            Indiana;

10        **after December 31, 2008. The incidence of the tax shall be solely**  
 11        **upon the employer subject to the tax and shall not be transferred**  
 12        **directly or indirectly to the employee in any circumstances.**

13        **Sec. 2. The amount of the employer payroll expense tax imposed**  
 14        **on an employer for a calendar year is determined under STEP**  
 15        **TWO of the following formula:**

16            **STEP ONE: Determine the total amount of compensation**  
 17            **paid by the employer to employees during the calendar year.**

18            **STEP TWO: Multiply the STEP ONE amount by twenty-five**  
 19            **hundredths of one percent (0.25%).**

20        **Chapter 3. Returns and Remittances**

21        **Sec. 1. An employer who is subject to the tax imposed by this**  
 22        **article shall file an annual return with the department on or before**  
 23        **the thirtieth day following the close of the calendar year. An**  
 24        **employer may take a credit on an annual return filed under this**  
 25        **section for any taxes previously paid by the employer for that**  
 26        **calendar year under section 2 or 3 of this chapter.**

27        **Sec. 2. (a) Except as provided by subsection (b) or section 3 of**  
 28        **this chapter, an employer who is subject to the tax imposed by this**  
 29        **article shall file returns with the department and make payments**  
 30        **of the tax imposed by this article at the same time the employer**  
 31        **files withholding returns under IC 6-3-4. The amount of tax to be**  
 32        **paid by the employer with each withholding return is determined**  
 33        **under STEP TWO of the following formula:**

34            **STEP ONE: Determine the total amount of compensation**  
 35            **paid by the employer to employees during the period covered**  
 36            **by the withholding return.**

37            **STEP TWO: Multiply the STEP ONE amount by twenty-five**  
 38            **hundredths of one percent (0.25%).**

39        **(b) An employer who is required by IC 6-3-4-8.1 to remit**  
 40        **monthly withholding taxes due by electronic funds transfer or by**  
 41        **delivering a payment by cashier's check, certified check, or money**  
 42        **order shall remit the monthly tax payments required by subsection**

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(a) in the same manner and at the same time. If an employer's remittance of employer payroll expense taxes is made by electronic funds transfer, the employer is not required to file a monthly return for those taxes. However, the employer shall file a quarterly return before the twentieth day following the end of each calendar quarter.

Sec. 3. (a) Except as provided by subsection (b), an employer who is subject to the tax imposed by this article but is not required to file withholding returns under IC 6-3-4 shall file monthly returns with the department and make monthly payments of the tax imposed by this article. The amount of tax to be paid by the employer for each month is determined under STEP TWO of the following formula:

STEP ONE: Determine the total amount of compensation paid by the employer to employees during the month.

STEP TWO: Multiply the STEP ONE amount by twenty-five hundredths of one percent (0.25%).

The employer shall pay taxes due under this section for a particular month to the department not later than thirty (30) days after the end of that month.

(b) If the department determines that:

(1) the employer's estimated monthly tax liability under this article for the current calendar year; or

(2) the employer's average monthly tax liability under this article for the preceding calendar year;

exceeds ten thousand dollars (\$10,000), the employer shall remit the monthly tax payments required by this section by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. If an employer's remittance is made by electronic funds transfer, the employer is not required to file a monthly return for those taxes. However, the employer shall file a quarterly return before the twentieth day following the end of each calendar quarter.

Sec. 4. The department shall require an employer to report the amount of each remittance that is attributable to each taxing district in which an employee of the employer has a principal place of business or employment, as determined at the beginning of the month in which the compensation was earned.

Sec. 5. The department shall prescribe the procedures and forms for making returns and payments under this chapter, including a procedure for combining the returns required by this

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section with the withholding returns required by IC 6-3-4.

**Chapter 4. Administration and Deposit of Revenue**

**Sec. 1. The local government payroll distribution fund is established. The department shall administer the fund.**

**Sec. 2. The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from the investments shall be allocated to and deposited in the fund.**

**Sec. 3. Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 4. The net amount collected from the tax imposed under this article, after making refunds and other adjustments for the overpayment of taxes under this article, shall be deposited in the fund.**

**Sec. 5. After December 31, 2008, the department shall distribute the balance in the fund at least monthly to taxing units.**

**Sec. 6. The amount to be distributed from the fund to a taxing unit is the amount determined under STEP TWO of the following formula:**

**STEP ONE: For each taxing district in which a taxing unit imposes a tax under IC 6-1.2, determine the total amount being distributed that is attributable to employees who have a principal place of business or employment in the taxing district.**

**STEP TWO: Multiply the STEP ONE amount by a fraction. The:**

**(A) numerator of the fraction is the amount of the budget for the taxing unit approved by the county board under IC 6-1.2 for the budget year in which the tax being distributed was imposed; and**

**(B) denominator of the fraction is the sum of the budgets approved by the county board under IC 6-1.2 for all of the taxing units permitted to impose a tax under IC 6-1.2 for the budget year in which the tax being distributed was imposed.**

**Sec. 7. There is annually appropriated to the department from the fund an amount sufficient to make the distributions required by this chapter.**

**SECTION 11. IC 6-2.3-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. On or before the fifth day of each month, the total amount of utility receipts tax**

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revenues received by the department in the immediately preceding month shall be deposited in the ~~state general~~ **local government distribution** fund.

SECTION 12. IC 6-2.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 2. (a) The state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction and is imposed at the following rates:

STATE GROSS RETAIL TAX	GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION		
\$ 0		less than	\$0.09
<del>\$ 0.01</del>	at least \$ 0.09	but less than	\$0.25
<del>\$ 0.02</del>	at least \$ 0.25	but less than	\$0.42
<del>\$ 0.03</del>	at least \$ 0.42	but less than	\$0.59
<del>\$ 0.04</del>	at least \$ 0.59	but less than	\$0.75
<del>\$ 0.05</del>	at least \$ 0.75	but less than	\$0.92
<del>\$ 0.06</del>	at least \$ 0.92	but less than	\$1.09
\$ 0		less than	\$0.07
\$ 0.01	at least \$ 0.07	but less than	\$0.21
\$ 0.02	at least \$ 0.21	but less than	\$0.36
\$ 0.03	at least \$ 0.36	but less than	\$0.50
\$ 0.04	at least \$ 0.50	but less than	\$0.64
\$ 0.05	at least \$ 0.64	but less than	\$0.78
\$ 0.06	at least \$ 0.78	but less than	\$0.93
\$ 0.07	at least \$ 0.93	but less than	\$1.08

On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and ~~nine~~ **eight** cents (~~\$1.09~~) (**\$1.08**) or more, the state gross retail tax is ~~six~~ **seven** percent (~~6%~~) (**7%**) of that gross retail income.

(b) If the tax, computed under subsection (a), results in a fraction of one-half cent (\$0.005) or more, the amount of the tax shall be rounded to the next additional cent.

SECTION 13. IC 6-2.5-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 7. Except as otherwise provided in IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the department, for a particular reporting period, an amount equal to the product of:

- (1) ~~six~~ **seven** percent (~~6%~~) (**7%**); multiplied by
- (2) the retail merchant's total gross retail income from taxable transactions made during the reporting period.

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1 The amount determined under this section is the retail merchant's state  
 2 gross retail and use tax liability regardless of the amount of tax ~~he~~ **the**  
 3 **retail merchant** actually collects.

4 SECTION 14. IC 6-2.5-6-8 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 8. (a) For  
 6 purposes of determining the amount of state gross retail and use taxes  
 7 which ~~he~~ **the retail merchant's** must remit under section 7 of this  
 8 chapter, a retail merchant may exclude from ~~his~~ **the retail merchant's**  
 9 gross retail income from retail transactions made during a particular  
 10 reporting period, an amount equal to the product of:

- 11 (1) the amount of that gross retail income; multiplied by
- 12 (2) the retail merchant's "income exclusion ratio" for the tax year  
 13 which contains the reporting period.

14 (b) A retail merchant's "income exclusion ratio" for a particular tax  
 15 year equals a fraction, the numerator of which is the retail merchant's  
 16 estimated total gross retail income for the tax year from unitary retail  
 17 transactions which produce gross retail income of less than ~~nine~~ **eight**  
 18 cents (~~\$0.09~~) (**\$0.08**) each, and the denominator of which is the retail  
 19 merchant's estimated total gross retail income for the tax year from all  
 20 retail transactions.

21 (c) In order to minimize a retail merchant's recordkeeping  
 22 requirements, the department shall prescribe a procedure for  
 23 determining the retail merchant's income exclusion ratio for a tax year,  
 24 based on a period of time, not to exceed fifteen (15) consecutive days,  
 25 during the first quarter of the retail merchant's tax year. However, the  
 26 period of time may be changed if the change is requested by the retail  
 27 merchant because of ~~his~~ **the retail merchant's** peculiar accounting  
 28 procedures or marketing factors. In addition, if a retail merchant has  
 29 multiple sales locations or diverse types of sales, the department shall  
 30 permit the retail merchant to determine the ratio on the basis of a  
 31 representative sampling of the locations and types of sales.

32 SECTION 15. IC 6-2.5-6-10, AS AMENDED BY P.L.211-2007,  
 33 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 FEBRUARY 1, 2009]: Sec. 10. (a) In order to compensate retail  
 35 merchants for collecting and timely remitting the state gross retail tax  
 36 and the state use tax, every retail merchant, except a retail merchant  
 37 referred to in subsection (c), is entitled to deduct and retain from the  
 38 amount of those taxes otherwise required to be remitted under  
 39 IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's  
 40 collection allowance.

41 (b) The allowance equals a percentage of the retail merchant's state  
 42 gross retail and use tax liability accrued during a calendar year,

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specified as follows:

(1) ~~Eighty-three~~ **Seventy-one** hundredths percent ~~(0.83%)~~; **(0.71%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) ~~Six-tenths~~ **Fifty-two hundredths** percent ~~(0.6%)~~; **(0.52%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) ~~Three-tenths~~ **Twenty-six hundredths** percent ~~(0.3%)~~; **(0.26%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 16. IC 6-2.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~six seven~~ percent ~~(6%)~~; **(7%)**.

The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~six seven~~ percent ~~(6%)~~; **(7%)**.

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the

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transaction is exempt from taxation under IC 6-2.5-5.

SECTION 17. IC 6-2.5-7-5, AS AMENDED BY P.L.182-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals ~~five six~~ and ~~sixty-six fifty-four~~ hundredths percent (~~5.66%~~) **(6.54%)** of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which ~~he~~ **the retail merchant** has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

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(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents (\$0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 18. IC 6-2.5-10-1, AS AMENDED BY P.L.234-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

~~(1) Fifty percent (50%) of the collections shall be paid into the property tax replacement fund established under IC 6-1.1-21.~~

~~(2) (1) Forty-nine~~ **Ninety-nine** and ~~sixty-seven~~ **one hundred ninety-seven** thousandths percent ~~(49.067%)~~ **(99.197%)** of the collections shall be paid into the state general fund.

~~(3) (2) Seventy-six hundredths~~ **Six hundred fifty-four thousandths** of one percent ~~(0.76%)~~ **(0.654%)** of the collections shall be paid into the public mass transportation fund established by IC 8-23-3-8.

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(4) ~~(3) Thirty-three~~ **Twenty-eight** thousandths of one percent ~~(0.033%)~~ **(0.028%)** of the collections shall be deposited into the industrial rail service fund established under IC 8-3-1.7-2.

~~(5)~~ **(4)** ~~Fourteen-hundredths~~ **One hundred twenty-one thousandths** of one percent ~~(0.14%)~~ **(0.121%)** of the collections shall be deposited into the commuter rail service fund established under IC 8-3-1.5-20.5.

SECTION 19. IC 6-3-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 1. (a) Each taxable year, a tax at the rate of ~~three one and four-tenths seventeen-hundredths~~ percent ~~(3.4%)~~ **(1.17%)** of adjusted gross income is imposed upon the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person.

(b) Except as provided in section 1.5 of this chapter, each taxable year, a tax at the rate of eight and five-tenths percent (8.5%) of adjusted gross income is imposed on that part of the adjusted gross income derived from sources within Indiana of every corporation.

SECTION 20. IC 6-3-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 3. (a) ~~At~~ **The** revenues derived from collection of the adjusted gross income tax imposed on corporations shall be deposited in the state general fund.

(b) All revenues derived from collection of the adjusted gross income tax imposed on persons shall be deposited ~~as follows:~~

~~(1) Eighty-six percent (86%)~~ in the state general fund.

~~(2) Fourteen percent (14%) in the property tax replacement fund.~~

SECTION 21. IC 6-8.1-1-1, AS AMENDED BY P.L.233-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); **the local resident income tax (IC 6-1.6); the fire and safety benefit tax (IC 6-1.7); the commercial activity tax (IC 6-1.8); the employer payroll expense tax (IC 6-1.9);** the gross income tax (IC 6-2.1) (repealed); the utility receipts and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the

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gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer.

**SECTION 22. [EFFECTIVE JULY 1, 2008] (a) For purposes of:**

- (1) IC 6-2.5-2-2, as amended by this act;**
- (2) IC 6-2.5-6-7, as amended by this act;**
- (3) IC 6-2.5-6-8, as amended by this act;**
- (4) IC 6-2.5-6-10, as amended by this act;**
- (5) IC 6-2.5-7-3, as amended by this act; and**
- (6) IC 6-2.5-7-5, as amended by this act;**

**all transactions, except the furnishing of public utility, telephone, or cable television services and commodities by retail merchants described in IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11, shall be considered as having occurred after December 31, 2008, to the extent that delivery of the property or services constituting selling at retail is made after that date to the purchaser or to the place of delivery designated by the purchaser. However, a transaction shall be considered as having occurred before January 1, 2009, to the extent that the agreement of the parties to the transaction was entered into before January 1, 2009, and payment for the property or services furnished in the transaction is made before January 1, 2009, notwithstanding the delivery of the property or services after December 31, 2008.**

**(b) With respect to a transaction constituting the furnishing of public utility, telephone, or cable television services and commodities, only transactions for which the charges are collected upon original statements and billings dated after October 31, 2008,**

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1 shall be considered as having occurred after December 31, 2008.

2 (c) The legislative council shall provide for the preparation of  
3 legislation for introduction in the 2009 regular session of the  
4 general assembly to correct and revise statutes affected by this act.

5 (d) A county council or county option income tax council that  
6 imposed a tax under IC 6-3.5-1.1, IC 6-3.5-6, or IC 6-3.5-7 shall  
7 reduce the tax for periods after September 30, 2008, to eliminate  
8 amounts that would otherwise have been allocated to replace the  
9 revenue lost from homestead credits or property tax replacement  
10 credits granted under the law. No part of a certified distribution  
11 under IC 6-3.5-1.1-11 or another provision of IC 6-3.5 shall be  
12 allocated to property tax replacement credits or homestead credits  
13 after December 31, 2008. The department of state revenue shall  
14 adjust certified distribution under IC 6-3.5-1.1, IC 6-3.5-6, or  
15 IC 6-3.5-7 for 2009 to eliminate any part that:

16 (1) would have been distributed based on the collection of  
17 taxes imposed on adjusted gross income after September 30,  
18 2008; and

19 (2) for the purpose of granting property tax replacement  
20 credits or homestead credits in 2009;

21 as determined by the department of state revenue after reviewing  
22 the recommendation of the budget agency. Any remaining part of  
23 the certified distribution for 2009 that would have been allocated  
24 to property tax replacement credits or homestead credits if this law  
25 had not been enacted shall be used to reduce the taxes imposed  
26 under IC 6-1.6 in 2009.

27 (e) A taxpayer who is subject in a taxable year to different state  
28 adjusted gross income tax rates, county adjusted gross income tax  
29 rates, county option income tax rates, or county economic  
30 development income tax rates shall pay taxes at each rate equal to  
31 the product of:

32 (1) the amount of taxes the taxpayer would owe if the tax rate  
33 had been imposed during the taxpayer's entire taxable year;  
34 multiplied by

35 (2) a fraction:

36 (A) The numerator of the fraction equals the number of  
37 days during the taxpayer's taxable year during which the  
38 tax rate was in effect.

39 (B) The denominator of the fraction equals the total  
40 number of days in the taxpayer's taxable year.

41 The department of state revenue shall provide instructions to  
42 employers and taxpayers to implement this subsection.

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1       (f) Notwithstanding IC 6-1.1-20, IC 6-1.1-20 applies to bonds  
 2       and leases for capital projects payable from any combination of a  
 3       local resident income tax imposed under IC 6-1.6, a fire and safety  
 4       benefit tax imposed under IC 6-1.7, a commercial activity tax  
 5       imposed under IC 6-1.8, or an employer payroll expense tax  
 6       imposed under IC 6-1.9.

7       (g) This subsection does not apply to an exemption granted  
 8       under IC 6-1.1-10 or another law. A deduction from the assessed  
 9       value of property subject to property taxation granted by  
 10      IC 6-1.1-12, IC 6-1.1-12.1, or another law shall not be treated as a  
 11      deduction or an exemption from fire and safety benefit taxes  
 12      imposed under IC 6-1.7.

13      (h) On January 1, 2009, the property tax replacement fund is  
 14      terminated. The unencumbered balance of the property tax  
 15      replacement fund shall be deposited in the state general fund.  
 16      Money required by law to be deposited in the property tax  
 17      replacement fund shall, after December 31, 2008, be deposited in  
 18      the local government distribution fund.

19      (i) The department of local government finance shall assist  
 20      political subdivisions and county boards of tax and capital projects  
 21      review with the implementation of this act.

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